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Letter dated 18 December 2009 addressed to the President of the Security Council by the Secretary-General

I have the honour to refer to my decision, transmitted to the Security Council on 28 October 2009, to establish an international Commission of Inquiry to investigate the violence that took place in Conakry on 28 September 2009. In this regard, I wish to inform the members of the Security Council that the Commission has just completed its mission and has submitted its final report to me.

As you are aware, the Commission was given a mandate to establish the facts of the events of 28 September 2009, qualify the crimes perpetrated, determine responsibilities, where possible, identify those responsible, and make recommendations.

By this letter, I wish to transmit to the members of the Security Council a copy of the final report of the Commission (see annex). I also plan to transmit the report to the interim Head of State of the Republic of Guinea, the Commission of the African Union and the Commission of the Economic Community of West African States.

In my letter to the Government of Guinea, I recalled its obligation to provide protection for victims and witnesses, in particular those who cooperated with the Commission. I also emphasized the urgent need for the Government of Guinea to seize the opportunity presented by the report to turn away once and for all from the violence which characterized the tragic events of 28 September 2009.

I should therefore be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

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Annex

Report of the International Commission of Inquiry mandated to establish the facts and circumstances of the events of 28 September 2009 in Guinea

Summary

In a letter dated 28 October 2009, the Secretary-General of the United Nations, Ban Ki-moon, informed the members of the Security Council of his decision to establish an international commission of inquiry mandated to establish the facts and circumstances of the events of 28 September 2009 in Guinea and the related events in their immediate aftermath, qualify the crimes perpetrated, determine responsibilities, identify those responsible, where possible, and make recommendations.

During its inquiry, the Commission interviewed the President of the Republic of Guinea and several representatives of his Government. It met with 687 persons, in Conakry and Dakar.

The Commission is in a position to confirm the identity of 156 persons who were killed or who disappeared: 67 persons killed whose bodies were returned to their families, 40 persons who were seen dead in the stadium or in morgues but whose bodies have disappeared, and 49 persons who were seen in the stadium but whose fate is unknown. It confirms that at least 109 women were subjected to rape and other sexual violence, including sexual mutilation and sexual slavery. Several women died of their wounds following particularly cruel sexual attacks. The Commission also confirms hundreds of other cases of torture or of cruel, inhuman or degrading treatment. Dozens of persons were arrested and arbitrarily detained in the military camps of Alpha Yaya Diallo and Kundara and in the barracks of the riot police (CMIS), where they were tortured. The security forces also systematically stole demonstrators' property and engaged in looting.

The Commission considers that, during the abuses on 28 September and the immediate aftermath, the Guinean authorities deliberately embarked on destruction of the traces of the violations committed, with the aim of concealing the facts: cleaning of the stadium, removal of the bodies of the victims of executions, burial in mass graves, denial of medical care to victims, deliberate alteration of medical records and military take-over of hospitals and morgues. This operation created a climate of fear and insecurity among the population. The Commission therefore believes that the number of victims of all these violations is quite probably higher.

The Guinean Government has provided utterly contradictory versions of the events, on the one hand stating that the security forces present were too few to have committed so many abuses and on the other hand blaming the political leaders who provoked the reaction by the army. The authorities denied any possibility of rape or other sexual violence, claiming that such acts could not be committed in a public place and in a period of 10 to 20 minutes, corresponding to the official version of the duration of the events in the stadium. They acknowledge a total of 63 dead and at least 1,399 wounded, and the hospitals state that they treated at least 33 women who had been raped during the events.

In response to the events, the Government established a National Commission of Inquiry. Its strong-arm tactics, and particularly those of its military wing, seem to intimidate witnesses rather than encouraging them to come forward.

The Commission concludes that Guinea violated several provisions of the international human rights conventions ratified by it.

The Commission believes that it is reasonable to conclude that the crimes perpetrated on 28 September 2009 and in the immediate aftermath can be described as crimes against humanity. These crimes are part of a widespread and systematic attack launched by the Presidential Guard, the police responsible for combating drug trafficking and organized crime and the militia, among others, against the civilian population. The Commission also concludes that there are sufficient grounds for assuming criminal responsibility on the part of certain persons named in the report, either directly or as a military commander or supervisor.

The Commission's recommendations include the following:

In order to prevent the situation in Guinea from degenerating, it recommends that the Security Council should remain seized of the situation in that country and that the Office of the United Nations High Commissioner for Human Rights should open one of its offices there, at least for 2010.

In order to remedy domestic institutional deficiencies, it recommends that national and international agencies should consider all possible measures to help Guinea to reform its army and its judiciary. It also recommends that Guinea should undertake a truth-seeking exercise in order to shed light on its painful past.

As regards the events of 28 September, it recommends that the Guinean Government should be strongly urged to provide the families concerned with all relevant information on the case of persons who have disappeared, that the International Criminal Court should be asked to investigate the persons alleged to have committed crimes against humanity, that adequate reparation should be made to the victims and that targeted sanctions should be imposed against the principal perpetrators of the violations.

The Commission reminds the Guinean Government of its commitments and obligations regarding the protection of victims or witnesses, and in particular those who cooperated with the Commission. Lastly, it recommends that all States which are in a position to do so should, following the rules of international law on asylum, admit any victim or witness who is in danger.

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I. Introduction

A. Introduction

1. The process of establishment of the International Commission of Inquiry

1. In a letter dated 28 October 2009, the Secretary-General of the United Nations, Mr. Ban Ki-moon, informed the members of the Security Council of his decision to establish an international commission of inquiry (the Commission) to investigate the many killings, injuries and alleged gross human rights violations that took place in the Republic of Guinea on 28 September 2009. The Commission would be mandated to establish the facts and circumstances of the events of 28 September 2009 and the related events in their immediate aftermath, qualify the crime perpetrated, determine responsibilities and, where possible, identify those responsible.[1] The Office of the United Nations High Commissioner for Human Rights (OHCHR) would provide support to the Commission, which would submit its report to the Secretary-General within two months from the start of its activities.[2]

2. This decision was taken following, on the one hand, the wish expressed on 2 October by the President of the Republic of Guinea and, on the other hand, the appeal by the Economic Community of West African States (ECOWAS) and by the International Contact Group on Guinea (ICG-G) requesting the Secretary-General to establish an international commission of inquiry in cooperation with the African Union and with the support of OHCHR.[3] It was in this context that the Secretary-General's decision was welcomed by ECOWAS,[4] the United Nations Security Council[5] and the African Union.[6]

3. In connection with this decision, the Secretary-General dispatched an exploratory mission to Guinea and the subregion from 16 to 20 October 2009 to discuss with national and regional actors the modalities for establishing the Commission and to assess the willingness of the Government to cooperate with the Commission. The mission was led by Mr. Haile Menkerios, Assistant Secretary-General for Political Affairs, and composed of representatives of the United Nations Office of Legal Affairs, the United Nations Office for West Africa and OHCHR. During this mission, the President of the Republic of Guinea, Captain Moussa Dadis Camara,[7] and the Prime Minister, Mr. Kabiné Komara,[8] stated in writing the willingness of the Guinean Government to cooperate with the Commission and facilitate its work. For its part, OHCHR sent a mission to Conakry, Guinea, from 1 to 6 November 2009 to prepare the deployment of the Commission.

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[1] S/2009/556.

[2] Ibid., annex, para. 6.

[3] ECOWAS communiqué dated 29 September 2009 and final communiqué of the eighth session of ICG-G dated 12 October 2009.

[4] Communiqué of the ECOWAS Summit Meeting held on 17 October 2009.

[5] Statement by the President of the United Nations Security Council (S/PRST/2009/27).

[6] Final communiqué of the 207th meeting of the African Union Peace and Security Council, held at the level of Heads of State and Government, Abuja, 29 October 2009.

[7] Letter from President Dadis Camara to the Secretary-General, 21 October 2009.

[8] Letter from the Guinean Prime Minister, Mr. Kabiné Komara, to the United Nations Assistant Secretary-General, Mr. Haile Menkerios, 19 October 2009.

2. Terms of reference of the Commission of Inquiry on Guinea

4. On 27 October 2009, the Secretary-General approved the terms of reference of the Commission, as prepared by OHCHR. According to these terms of reference, "The Commission of Inquiry shall investigate the facts and circumstances of the events of 28 September 2009 and related events in their immediate aftermath". To that end, the Commission shall (a) establish the facts; (b) qualify the crimes; (c) determine responsibilities and, where possible, identify those responsible; and (d) make recommendations, including, in particular, on accountability measures.[9] In order for the Commission to be able to conduct its inquiry, the terms of reference specify that in the conduct of its inquiry it shall enjoy the full cooperation of the Government of Guinea. The Government shall comply with requests of the Commission for assistance in collecting the required information and testimony and shall guarantee freedom of movement throughout the territory and freedom of access to all sources of information necessary for the fulfilment of its mandate.

5. The Commission shall submit its report to the Secretary-General within two months from the start of its activities. The Secretary-General will share the report with ECOWAS, the African Union and the Government of Guinea.

3. Composition of the Commission

6. The Commission's terms of reference state that it will be composed of three members having a reputation for probity and impartiality. On 30 October 2009, the Secretary-General therefore appointed, in consultation with ECOWAS and the African Union, Mr. Mohammed Bedjaoui (Algeria), Ms. Françoise Ngendahayo Kayiramirwa (Burundi) and Ms. Pramila Patten (Mauritius).

7. Mr. Bedjaoui is an Algerian diplomat and jurist. Among other functions, he has served as Minister for Foreign Affairs and as Algeria's Ambassador to France and to the United Nations. He has also served as judge and President of the International Court of Justice and as President of Algeria's highest judicial authority, the Constitutional Council. Ms. Ngendahayo Kayiramirwa is a former Minister of National Solidarity, Human Rights and Gender and former Minister for Repatriation and Reintegration of Internally Displaced Persons, in Burundi. She has also served with the International Criminal Tribunal for Rwanda as adviser on gender issues and assistance to victims. Ms. Patten, who is a barrister-at-law in Mauritius, is a member of the Committee on the Elimination of Discrimination against Women. She is the author of several publications on violence against women and on the rights of the child.

8. In order to assist the members of the Commission in their work, OHCHR provided a secretariat composed of 14 persons,[10] all possessing expertise in international law, in particular human rights and international criminal law, and experience in investigating human rights violations, including sexual violence. Mr. Roberto Ricci, Chief of the Peace Missions Support and Rapid Response Section of OHCHR, headed the secretariat of the Commission.

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[9] S/2009/556, annex, para. 2.

[10] Two experts were seconded by Justice Rapid Response and by the United Nations Development Fund for Women (UNIFEM).

B. Methodology used by the Commission

9. On 15 November 2009, Mr. Bedjaoui, Chairman of the Commission, and the other two members of the Commission, Ms. Ngendahayo Kayiramirwa and Ms. Pramila Patten, travelled to New York to meet with Mr. Ban Ki-moon, Secretary-General of the United Nations. They continued on to Geneva, where they met with the United Nations High Commissioner for Human Rights on 19 November. The members of the Commission also held a working meeting with the OHCHR desk officers for Guinea and met with representatives of a number of diplomatic missions before travelling on 25 November to Conakry, where the Commission secretariat had begun its field work on 15 November.

10. Prior to the arrival of the Commission secretariat in Conakry, an OHCHR human rights investigator visited Dakar from 17 to 24 October 2009 to gather information on the events of 28 September 2009. She met with members of Guinean civil society and with representatives of ECOWAS, the United Nations, human rights organizations and international organizations based in Dakar.

11. The Commission began its preliminary investigations after first meeting with Colonel Siba Loholamou, Minister of Justice, whom President Moussa Dadis Camara had designated as the focal point for the Commission, Mr. Boubacar Barry, Minister of Construction, Land-use Management and Public Property, and, in the absence of the Minster for Foreign Affairs, his Chief of Staff.

12. The members of the Commission met with representatives of Forces vives[11] and of non-governmental organizations (NGOs) working in the field of human rights in order to introduce themselves and to agree on a working method that would ensure that interviews could be conducted without endangering witnesses, victims or their families. They also met with staff of the United Nations specialized agencies with offices in Guinea.

13. In light of the statement by the President of the Republic of Guinea that he could not control all members of the military, who are the alleged perpetrators of the human rights violations, and in order to better protect witnesses, the victims and their families, the Commission decided to minimize individual contact with these persons by not interviewing them at their homes or places of work. In order to preserve the evidence for any future criminal prosecution, the Commission did not visit the locations that witnesses had identified as mass graves, despite the various corroborating accounts it had received.

14. The members of the Commission interviewed 687 witnesses, victims and relatives of victims at various locations in the city. NGOs that had already conducted investigations gave accounts of what had happened. The Commission met with members of the military and of the Conakry Prosecutor's Office and Bar Association. The directors of the clinics and staff of the hospitals that had treated victims were also interviewed.

15. The Commission's programme of work was prepared in consultation with the authorities and with the United Nations Resident Coordinator (acting). On the first day of their visit, the investigators met with the Prime Minister, Mr. Kabiné Komara, and members of the Government as well as with the President of the

[11] A movement that includes opposition political parties, trade unions and civil society.

Republic of Guinea, Captain Moussa Dadis Camara. The President reiterated that all civil and military authorities would cooperate fully with the Commission. He also assured the Commission that his Government would guarantee the safety of witnesses, victims and their families. The members of the Commission also met that day with representatives of the United Nations agencies with offices in Guinea and with representatives of the Council of Religious Leaders, comprised of both Christians and Muslims.

16. The members of the Commission continued their investigation by visiting the stadium and surrounding area, where the events of 28 September 2009 had taken place. They interviewed President Moussa Dadis Camara; the Minister of Defence; the Minister of Justice; the Minister of Health and Public Sanitation; the Minister responsible for the President's security, Captain Claude Pivi; the President's aide-de-camp, Lieutenant Aboubacar Chérif Diakité (a.k.a. Toumba); the Minister of the Special Services responsible for combating drug trafficking and organized crime, Commander Moussa Thégboro Camara; the Minister for Foreign Affairs and Guineans Abroad, Alexandre Cécé Loua; and the Minister of Territorial Administration and Political Affairs, Frédéric Kolié. They also held a meeting with members of the Crisis Committee,[12] which was attended by the Minister of Health and the directors of the Ignace Deen and Donka hospitals. At a meeting with representatives of Forces vives, the members of the Commission took statements from individuals who were there not only in their capacity as representatives of political parties but also as victims or witnesses themselves.

17. The members of the Commission visited the Ignace Deen and Donka public hospitals, where they interviewed the directors and doctors who had been present when the victims were treated on 28 September 2009 and in the days following. The members of the Commission also visited the ransacked homes of several political leaders. They interviewed witnesses, victims and their families, who had been previously selected by the investigators, and spoke with anyone else who wished to meet with the Commission.

18. Commission members went to Dakar to meet with victims and a number of witnesses who had sought refuge in Senegal. They also met with representatives of the international community and United Nations bodies.

19. The Commission's programme of work provided for a meeting with the President of the Republic of Guinea at the end of the mission to discuss the Commission's preliminary findings. This meeting was cancelled following the attempt on the life of President Moussa Dadis Camara. The Commission left Conakry on 5 December 2009 issuing a press statement that it had concluded its on-site investigation and releasing its preliminary findings.

20. All of the Commission's meetings with the authorities proceeded smoothly and with the full cooperation of the authorities, except for a number of requests that were denied or ignored. Lieutenant Toumba, for example, denied the Commission's request to meet with individuals under his command who had been identified as

[12] The Crisis Committee was established after the events of January and February 2007. It works with partners such as the United Nations Children's Fund (UNICEF), the World Health Organization (WHO) and Doctors Without Borders. The Committee coordinates the care provided to victims during crises, treats the sick during strikes by health-care workers and supplies medicines.

such and who were alleged to have actively participated in the events of 28 September at the stadium. The Minister of Defence did not reply to the Commission's request to visit the Kundara and Kassa camps and, despite several oral requests to the Director-General of the National Police, a copy of the report prepared by the technical and scientific police experts present at the stadium and at the Bellevue police station was never provided.

21. The Commission received many written documents (official documents and texts and newspaper articles) along with audio-visual materials (photographic and video) recorded by victims and witnesses. It used all of these materials in its investigation of the various violations that were alleged to have taken place. The documents, testimony and images received by the Commission have been archived and will be turned over to OHCHR; public access to them may be granted, subject to authorization by the Secretary-General of the United Nations and while respecting the principles of confidentiality.

22. From 7 to 16 December, the Commission completed its report in Geneva. In fulfilment of its mandate, the Commission decided that in order to obtain the quality of evidence needed to establish the facts, the information received must be checked against independent sources, preferably eyewitness accounts, and independently verified evidence assembled to demonstrate that a person may reasonably be suspected of having participated in the commission of a crime. This is the approach commonly used by international commissions of inquiry, which endeavour to put together reliable evidence corroborated by verified testimony. Thus, the report does not include any testimony that has not been corroborated by at least one other source and the statistics on the various types of violations refer only to individuals who have been identified by name.

C. Legal framework

1. Domestic law

23. The Constitution of 23 December 1990, which is the fundamental law of the Republic of Guinea, was suspended on 24 December 2008, with the exception of Title II. The latter covers fundamental freedoms and rights of citizens, in particular freedom of expression and of opinion (art. 7) and the right to hold demonstrations and marches (art. 10). Article 22 allows restrictions on these rights and freedoms only where such restrictions are essential for the maintenance of public order. It provides that groups whose purpose or activities violate the law or constitute a clear disturbance of public order may be dissolved. Pursuant to article 59 of the Constitution, the basic principles for the maintenance of public order are set forth in articles 106 to 122 of the Penal Code of 31 December 1998[13] and in the so-called

[13] The local public authorities must receive detailed advance notification in writing of any public meeting (articles 106 and 107). The authority must acknowledge receipt of the notice and inform its supervisory authority. The administrative authority responsible for public order may then prohibit the public meeting if there is a real threat of disturbance of public order, particularly in view of the heightened tensions following the recent political or social events. Sufficient grounds must exist for the decision to prohibit the meeting before the signatories of the notification are informed. The decision may then either be confirmed or overturned by the supervisory authority, with the possibility of appeal to the Supreme Court (art. 108). Article 109 imposes penalties on organizers of demonstrations who fail to observe the foregoing provisions.

"Riot control act" of 2005, which regulates rallies, meetings, marches and processions in public places. Under article 110 of the Penal Code, members of the security forces may use force at public gatherings only if violence is used against them or if they have no other means of defending the location they are occupying or the posts or persons they are responsible for protecting. According to the universal principles governing the use of force, which are referred to, moreover, in article 9 of the Guinean National Police Code of Ethics of 11 August 1998, such use must always be proportionate to the objective sought.

2. International human rights law

24. Guinea has signed and ratified the majority of international and regional human rights conventions and, like all other States, it is also bound by the applicable norms of customary international law. Six of the international instruments ratified by Guinea, which apply to the events of 28 September, deserve to be mentioned in particular: the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Discrimination against Women; and the African Charter on Human and Peoples' Rights. Mention should also be made of the Convention on the Rights of the Child, which was ratified by Guinea on 13 July 1990, and the African Charter on the Rights and Welfare of the Child, ratified on 21 January 2000.

25. Chapter III of the report will show that many of the rights guaranteed by these conventions were violated during the events of 28 September. Chapter IV will examine the responsibilities of the Guinean State for these violations and its obligations relating thereto.

3. International criminal law

26. On 14 July 2003, Guinea ratified the Rome Statute of the International Criminal Court, which therefore has jurisdiction to try the crimes committed in Guinea for which it has competence.

27. Aside from the crime of aggression, the Rome Statute establishes three major categories of international crimes: war crimes, crimes against humanity and genocide. War crimes can be committed only in a country experiencing an armed conflict, which is not the case of Guinea. Therefore, common article 3 of the four Geneva Conventions of 12 August 1949 also does not apply here. As the Commission did not receive evidence to suggest that the crime of genocide had been committed, only the category of crimes against humanity is therefore applicable to the events of 28 September.

28. A crime against humanity has been committed when one of the acts listed in article 7 of the Rome Statute[14] is committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.

[14] Specifically: murder, extermination, enslavement, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty, torture, rape and other forms of sexual violence, persecution, enforced disappearance, apartheid and other inhumane acts.

D. Structure and organization of the security forces involved in the events of 28 September 2009

29. Four services, attached to four different ministries, were involved in the events: the National Police; the army, and in particular, the National Gendarmerie; the Special Services responsible for combating drug trafficking and organized crime; and the Presidential Guard. The Commission conducted interviews with the heads of all these services as well as with some of their subordinates.

1. The National Police

30. The General Directorate of the National Police (DGPN) reports to the Ministry of Security and Civil Protection, which is headed by Major General Mamadouba Toto Camara, and comprises, among other units, the Central Directorate for Public Security, which has regional offices throughout the country and also includes the Conakry Urban Security Directorate. The latter is responsible for the seven central police stations in the city of Conakry, which are spread over the five communes of Kaloum, Matam, Dixinn, Ratoma and Matoto, the last two of which have two stations each because of their large size. The main function of the central police stations, Bellevue in particular, is to ensure public security.

31. The National Police has primary responsibility for maintaining order during demonstrations. Its ranks include both city police officers from the central police stations and the special intervention brigade and special agents of the Mobile Intervention and Security Force (CMIS) who report directly to DGPN. Police officers wear a solid black or blue uniform with a black beret. Since the CNDD took power on 23 December 2008, it appears that in practice the National Police has lost much of its authority in the city of Conakry to the National Gendarmerie and the anti-drug and organized crime Special Services unit.

2. The army and the National Gendarmerie

32. Under the authority of the Ministry of Defence headed by Brigadier General Sékouba Konaté, the Guinean army, consisting of some 12,000 female and male personnel, is under the command of the Army Chief of Staff at camp Samory Touré, who leads the general staffs of the army, air force, navy and National Gendarmerie. According to the most recent figures, the Gendarmerie comprises 5,830 personnel (5,234 men and 596 women).

33. The National Gendarmerie, whose members wear military camouflage (fatigues) or sometimes fatigue pants and a black T-shirt marked "Gendarmerie", along with a green beret, is subdivided into a departmental gendarmerie with responsibility for administrative, criminal and military police duties and a mobile gendarmerie with responsibility for maintaining law and order by means of mobile squadrons (six for the city of Conakry; each squadron consists of about 120 personnel).

34. For the maintenance of law and order, the National Gendarmerie regularly intervenes in support of the National Police, while regular army troops are brought in only in exceptional cases, as a third echelon, at the request of the political authorities.

3. The special services, drug control and organized crime units

35. The Ministry responsible for the special services, drug control and organized crime units under the leadership of Commander Moussa Thégboro Camara, which officially includes some 200 gendarmes and a number of specialized police officers, is subdivided, at the operational level, into a special services unit, a drug control unit and an organized crime unit, all located in a dedicated sector of camp Alpha Yaya Diallo. These units, which at first were collectively designated as a State secretariat and then as a specific ministry, were established after 23 December 2008 and were given nationwide jurisdiction as a means of focusing on the areas in question, deemed priorities by the new Conseil national pour la démocratie et le développement (CNDD) Government.

36. Commander Thégboro's men wear fatigue pants, a black T-shirt with their unit's logo and a green beret or sometimes a black cap. They have no specific law-and-order functions, but intervene alongside the police and mobile gendarme units for the prevention and control of any crimes that fall within their particular areas of competence.

4. Presidential security

37. By an order dated 4 January 2009, four army battalions consisting of special troops, namely the autonomous airborne battalion, the special "rangers" battalion, the "Chinese" battalion and the presidential security battalion (also known as the presidential guard), were merged into a regiment of parachute commandos under the authority of the Ministry of Presidential Security, and headed by Captain Claude Pivi. These soldiers, whose exact numbers are not known (each battalion is estimated to comprise approximately 800 men), wear fatigues and a red beret. Most of them are stationed at camp Alpha Yaya Diallo, near to the buildings housing the President's Office, and at camp Kundara. They have the same duty as the rest of the army: to protect Guinea's territorial integrity in case of war. This in no way involves the maintenance of law and order, which is the remit of the domestic security forces. The presidential security battalion, as its name implies, is also responsible at all times for protecting the person of the President and his entourage, as well as the buildings housing the President's Office.

38. Since the removal of the former commander of the commando regiment, the President has commanded these troops through the Minister of Defence, while the Minister of Presidential Security describes his responsibility as "coordinating the command at the level of the presidency".[15] In reality, leadership of these units is left to battalion commanders like Lieutenant Aboubacar Chérif Diakité (known as Toumba), officially the President's aide-de-camp and commander of his close protection unit. Nonetheless, the latter's statements indicate that he regards himself as the commander of the commando regiment, taking orders directly from the President and not from Minister Pivi.[16] Since CNDD came to power, the red beret unit has been gradually transformed by its recruitment, particularly in the Guinée Forestière region, of Guinean or foreign civilians — some of them former rebels — who are given uniforms and incorporated, with no regular army training, into the various battalions.

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[15] Interview with Captain Claude Pivi on 2 December 2009.

[16] Interview with Lieutenant Aboubacar Chérif Diakité on 2 December 2009.

5. Civilian militias

39. The army general staff denies the existence of militias, meaning paramilitary groups trained by the Government and consisting of armed civilians acting outside the control of the regular army, in Guinea's territory. A law enforcement officer nonetheless testified that, in the days prior to 28 September and on the day itself, Captain Pivi's entourage had included civilians whose accent, tattoos and amulets identified them as coming from Guinée Forestière. In addition, according to consistent testimony from many witnesses, the red berets were accompanied in the stadium by civilians wearing fatigue pants and T-shirts in various colours with or without brand names (Samsung, Chelsea), with red headbands or scarves, some decorated with cowries, on their heads, arms or wrists, and armed with knives. One political leader also recognized some former Liberian rebels who had belonged to the United Liberation Movement for Democracy in Liberia (ULIMO) and had recently been recruited by the red berets.

II. Facts

A. Context of the events of 28 September

1. From independence to the regimes of Sékou Touré and Lansana Conté

40. Guinea became independent on 2 October 1958, following elections held on 28 September 1958. Ahmed Sékou Touré became President at the age of 36. The Sékou Touré regime quickly deteriorated into a violent, repressive dictatorship.

41. The interim Government that came into power after the death of Sékou Touré in 1984 was overthrown by the army led by General Lansana Conté, who introduced a multiparty system in 1993. Despite contested elections, he was confirmed as President in 1993, 1998 and 2003, after revising the Constitution. The high hopes aroused by the change of regime were dashed over the years. The Conté regime was markedly corrupt and repressive, as most vividly illustrated by the mass demonstrations of January and February 2007.

2. Human rights violations committed in 2007

42. In January and February 2007, under the Lansana Conté Presidency, a general strike was called by the country's main trade unions to protest against corruption, bad governance and falling standards of living. The entire country was convulsed by a wave of strikes that began peacefully but hardened as the Government refused to satisfy the demands of the strikers. The demonstrations were ruthlessly put down, with considerable bloodshed, by the security forces, including the Presidential Guard ("the red berets"), the gendarmerie, the rangers and the police.

43. Investigations conducted by human rights NGOs confirmed 226 cases of summary executions and 14 cases of forced disappearance. Most of the summary executions and other crimes were committed by the red berets, who fired with live ammunition on peaceful crowds. Following those findings, a national commission was established on paper but was never convened. No meaningful investigation was ever conducted and the complaints of the victims and their families were not addressed by the courts.

3. Coup d'état of December 2008

44. President Lansana Conté died on 22 December 2008, after ruling Guinea for 24 years. Following the announcement of Conté's death, high-ranking army officers unilaterally dissolved the Government, claiming to be making a clean break with the Lansana Conté regime.

45. Three military units, led respectively by Brigadier-General Sékouba Konaté, Major General Mamadouba Toto Camara and Captain Moussa Dadis Camara, then began negotiations to decide who would take over as Head of State. Moussa Dadis Camara would ultimately become President of the Republic on 23 December. That same day, he declared the suspension of institutions and of the Constitution and the creation together with his fellow officers of a National Council for Democracy and Development (CNDD). This was in contravention of the laws in force, especially the Constitution, which provided that the President of the National Assembly should serve as a caretaker President and organize presidential elections within 60 days. As early as 24 December, ECOWAS and the African Union condemned this unconstitutional seizure of power and, on 10 January 2009, ECOWAS suspended Guinea from its decision-making bodies.

46. Although Guinea has a notoriously poorly trained and undisciplined army, with certain units that are prone to violence when left to their own devices, the military junta claimed that it would stamp out the corruption of the Conté years. In a context of widespread impunity, the junta was nevertheless hailed by many Guineans as a bulwark against the corruption, embezzlement, drug trafficking and insecurity that were undermining the country's institutions.

47. On 14 January 2009, the head of the military junta and Chairman of CNDD tightened his grip on the State by appointing soldiers, many of whom were close to him but not senior army officers, to most of the key Government posts. The junta leadership nevertheless claimed that it was willing to hand over power to a civilian president, with the head of the junta pledging to support a transitional process under the auspices of the International Contact Group. Among other things, that process provided for the holding of legislative and presidential elections in 2009 and the establishment of a transitional body (the National Transitional Council) composed of representatives of CNDD and Forces vives, and included a commitment that Moussa Dadis Camara and the Prime Minister would not participate in the elections. Indeed, it was decided, following a consensus between the junta and civil society, to hold the elections in late 2009. That date was eventually pushed back to early 2010 for technical reasons. In reality, Moussa Dadis Camara has delayed the establishment of the National Transitional Council.

48. On 27 January 2009, President Moussa Dadis Camara called upon all political parties to submit their governance platforms. In April, the number of political parties mushroomed from 49 to more than 90. The actions of CNDD on the Guinean political scene suggested that it was not ready to be a party to an electoral process. Forces vives began to express concern as to whether Moussa Dadis Camara and CNDD would stand for the elections, which gave rise to considerable tension between it and CNDD. At the same time, public opinion was divided among the "Dadis must stay", "Dadis must go" and "Dadis must step down" camps. By the middle of the year, Forces vives began to mobilize its supporters, while Moussa Dadis Camara undertook a nationwide tour on 24 and 25 September. On

25 September, he held a rally with his supporters at Labé, the stronghold of Cellou Dalein Diallo, with thousands of soldiers brought in from Conakry standing guard.

49. The country's increasing politicization is further heightened by the widespread impunity that prevails. During the second quarter of 2009, the junta sought to impose certain restrictions on the activities of some political parties, including access to national television and radio

4. The call for a demonstration on 28 September and the Government's response

50. In mid-August 2009, with the President declining in the media to rule out his candidacy in the 2010 presidential elections, the police and gendarmerie gathered intelligence on the initial reactions of opposition movements to the news. On 11 September, the State security services learned that the opposition was planning to organize a demonstration on 28 September. That very same day, the manager of the stadium issued a service note closing the stadium with immediate effect. On 22 September, the intelligence services reported that preparations were under way for the demonstration to take place at the stadium on 28 September or even at other locations in the commune of Ratoma, such as the Koloma national radio station and the Alpha Yaya Diallo military camp, presumably as a way for the opposition to show its strength by rallying a larger crowd at the stadium than the one that had attended the CNDD rally in March 2009.

51. For their part, the organizers of the rally sent a letter dated 23 September to the mayor of the commune of Dixinn, where the stadium selected as the venue for the 28 September demonstration was located. The mayor replied by letter dated 25 September that "the Office of the Mayor of Dixinn was not responsible for the management of the 28 September stadium" and that the stadium was "managed by a board under the supervision of the Department of Youth". The Minister of Youth and Sports confirmed on 26 September that the stadium was closed until further notice and the Minister of Labour declared 28 September a holiday. The Minister of Territorial Administration and Political Affairs claims[17] to have issued a Government communiqué in the media on 23 September, even though it was not published until 27 September. In the communiqué, the Government ordered the suspension of all demonstrations throughout the national territory on 28 September as a sign of respect for the date of national independence. In a press release dated 27 September, the coordination bureau of the Forum des Forces vives confirmed that the demonstration would proceed as planned the following day. On the evening of 27 September, the country's religious leaders went to the President's residence in an attempt to broker an agreement for the holding of the demonstration, but they were not received. On 28 September, around 1 a.m., the President, in the company of Commander Moussa Thégboro Camara,[18] telephoned the organizer of the demonstration, Sidya Touré, a former Prime Minister, to once again demand the postponement of the planned demonstration until another date and at another venue. Sidya Touré replied that it was already too late to inform the demonstrators that the rally had been called off. The President then telephoned one of the religious leaders to tell him that the demonstration had not been authorized and the religious leaders tried to negotiate a solution with the political leaders until the early morning hours.

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[17] Interview with Minister Kolié on 30 November 2009.

[18] Interview with Commander Moussa Thégboro Camara on 2 December 2009.

52. Since the demonstration was to proceed despite being banned, the national police and gendarmerie decided on 27 September to deploy a law enforcement unit to control the demonstrators who, according to information they had received, would number over 3,000 and would be hostile and armed, as in the past, with catapults, slingshots, stones, knives, and even weapons of war.[19] As agreed at the 27 September meeting, the police unit deployed on 28 September at 6 a.m. planned to station agents from the central police stations and CMIS at key and major crossroads to disperse crowds and block the roads leading to the stadium. The gendarmerie unit deployed at 5 a.m. was to post elements of the departmental gendarmerie along some routes in order to head off the demonstrators and use mobile squads to maintain order by erecting road blocks along the route to be taken by the demonstrators and at the entrance to the stadium. According to the orders issued by Colonel Oumar Sano, the Army Chief of Staff, all soldiers, with the exception of gendarmes, were to remain in their barracks.[20] Commander Thégboro's men were not part of the above-mentioned security arrangements, but 4 eight-man units patrolled various sectors of the town as they did every day. The red berets, for their part, had no assignment connected with the demonstration.

B. Details of the events of 28 September

1. Start of the rally

53. At 6 a.m., heavy rain was falling over Conakry. Despite the downpour, a few demonstrators began to gather towards 7 a.m. in the parking area in front of the main entrance to the stadium. Other demonstrators, mainly from Hamdallaye and Bambeto, began to converge on the stadium along the Bambeto-Bellevue road between 8.30 a.m. and 9 a.m., once the rain had stopped.

2. First incidents

54. Between 8.30 a.m. and 9 a.m., clashes occurred between security forces and demonstrators at several locations on the Donka road, including at the Hamdallaye roundabout, at the Bellevue crossroads, at the crossroads to the south-west of the terrace, and in the terrace itself, when demonstrators tried to force their way through the barriers in order to continue on to the stadium. During some of these incidents, demonstrators threw stones while security forces used tear gas and fired shots into the air. The security forces pursued the demonstrators into the neighbouring streets and beat them with batons and wooden sticks. The first fatality occurred at that time some 300 metres from the stadium, on the Donka road, when a young man was shot by a police officer. A little later, in the terrace, gendarmes from Thégboro's Anti-Drug and Organized Crime Unit, in the presence of their commander, shot and killed two other people. The gendarmes then proceeded to make arrests in the terrace.

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[19] Analysis of the situation contained in the "order for the deployment of gendarmerie units ahead of the protest demonstrations planned for 28 September 2009" issued on 27 September 2009 by the high command of the gendarmerie.

[20] Interview of 21 November 2009 with Colonel Oumar Sano and interviews of 25 November 2009 with Major David Haba, aide-de-camp to the Minister of Defence, and with Major Ibrahima Baldé, Chief of Staff of the Gendarmerie.

55. At the Bellevue crossroads, a group of Thégboro's gendarmes blocking the road to the stadium stopped a busload of demonstrators and made everyone step outside the vehicle. At least two of the demonstrators were then shot dead. In retaliation, the crowd threw stones and attacked the Bellevue police station, which was vandalized and set on fire. Several weapons were stolen from the police station by civilians. At around 10 a.m., a CMIS van abandoned by the police was turned upside down at Komandea between Hamdallaye and Bellevue.

56. The crowd continued towards the stadium and the security forces, outnumbered by the demonstrators, withdrew to the University. Demonstrators also vandalized the stadium police outpost in the parking area.

57. During the morning and throughout the day, persons were arrested at various locations in the city and then brought to military camps or to the gendarmerie barracks. Most of them were released on the same day or on the following day.

3. Opening of the stadium and movements of political leaders

58. The gates to the stadium complex were opened at around 10.30 a.m. The crowd then began to enter the stadium. The Commission has been unable to determine who opened the gates as some contend that Commander Thégboro himself gave the order. Others claim to have seen soldiers in plain clothes open them, while still others maintain that the demonstrators forced the gates open.

59. Political leaders had gathered at the home of one of their number, Jean-Marie Doré, prior to their departure for the stadium at around 11 a.m. Mr. Doré, however, remained at home awaiting a visit from religious leaders. The political leaders were stopped in front of the University by gendarmes led by Thégboro. The discussions between Commander Thégboro and the political leaders were broadcast live on the radio and, hearing that the leaders' path had been blocked, a crowd arrived to help them get to the stadium.

60. Commander Thégboro and his men eventually withdrew and the political leaders left the University to head for the stadium where a festive atmosphere prevailed: people were praying, dancing and singing. The political leaders did not have a public address system but they gave interviews to journalists while the crowd continued to sing and dance. Shortly before noon, Jean-Marie Doré arrived at the stadium to the cheers of the crowd.

4. Events inside the stadium and within the complex

61. Upon the arrival of Jean-Marie Doré at the stadium, demonstrators heard gunfire outside. While the crowd inside was shouting "It can't be true", a group of demonstrators left the stadium and routed the gendarmes and policemen entering the stadium complex. As soon as these demonstrators had returned to the stadium, tear gas was fired into the stadium complex behind the podium by a CMIS armoured vehicle. Red berets then descended from their vehicles while civilians armed with knives emerged from buses. The red berets passed through the entrance to the stadium complex and began shooting. They beat the persons standing at the entrance to the stadium complex and a group of leaders of the demonstration inside the complex. Firing their weapons, they entered the stadium at 12.05 p.m. Other red berets surrounded the stadium and blocked all of the exits, while some positioned themselves outside the stadium complex. Red berets and militia electrified some of

the gates and the barbed wire along the wall of the stadium complex by cutting down electricity cables, which they then placed in the path of the crowd.

62. Once inside the stadium, the red berets sprayed the crowd with gunfire. Demonstrators seeking to escape were killed by red berets, gendarmes and Thégboro's gendarmes positioned around the complex. Others were stabbed or beaten inside the stadium and within the complex, and then also systematically robbed by the security forces. Rapes and other acts of sexual violence were committed almost immediately after the red berets had entered the stadium. Dozens of persons attempting to escape through the gates either suffocated or were trampled to death in stampedes, which were compounded by the use of tear gas. Women were taken by red berets from the stadium, and from the D ma medical centre, and held as sex slaves for several days in different locations.

63. The violence continued until approximately 2 p.m. The violence had sufficiently abated by 1.30 p.m. for some of the demonstrators to begin leaving their hideouts.

5. The political leaders

64. As demonstrators tried to escape, activists surrounded the political leaders on the podium to protect them. Lieutenant Aboubacar Chérif Diakité (also known as "Toumba") ordered Cellou Dalein Diallo down onto the field and, when Diallo refused to move, ordered the red berets to go up onto the podium. The red berets attacked the political leaders and several of their bodyguards were injured, including by bullets; this includes one bodyguard who intervened when the President's driver, Sankara Kaba, opened fire on Cellou Dalein Diallo. At the same time, Jean-Marie Doré was being threatened by persons whom he identified as former members of ULIMO, dressed as red berets. Following the intervention of commander Thégboro, Doré managed to escape from the red berets by agreeing to follow the commander. The political leaders were then forcibly led outside the stadium, where they were placed in vehicles by lieutenant Toumba and commander Thégboro. They were first driven to the Ambroise Paré Clinic, where Second Lieutenant Marcel Koivogui, Toumba's deputy, forbade them entry and threatened them with a grenade. The most seriously injured, Cellou Dalein Diallo and Bah Oury, were then taken to the Samory Touré camp. Mouctar Diallo, Sidya Touré, François Fall and Jean-Marie Doré were taken to the gendarmerie headquarters. They were moved to the Pasteur Clinic at around 4 p.m.

65. Red berets began looting the homes of some political leaders at around 2 p.m.

6. Subsequent incidents

66. By mid-afternoon, the red berets were denying all access to the stadium and the relatives of missing persons, who began to arrive there at 5 p.m., were turned back.

67. Following the initial burst of gunfire in the stadium, the injured and some bodies were taken to hospital by the Guinean Red Cross, hospital ambulances and private vehicles. From 2 p.m. onwards, bodies were loaded into military trucks by CMIS agents, Thégboro's gendarmes and red berets, sometimes assisted by requisitioned civilians. Some of the bodies were taken directly to the Samory Touré camp, while others were taken to the morgue at Ignace Deen Hospital. The bodies

had begun to be unloaded when a person with the rank of commanding officer arrived in a Mercedes and ordered them to be reloaded and moved to a military camp. At 6 p.m., three trucks left Samory Touré camp for the morgues at Ignace Deen and Donka hospitals. According to the medical examiner, 43 bodies arrived towards 11 p.m. and were placed in the two morgues. Other bodies were moved during the day and on the following days, particularly during the night of 28 to 29 September, when they were removed from the morgues and buried in mass graves.

68. Red berets began arriving at Donka Hospital in the mid-afternoon. They ransacked the pharmacy before entering the hospital. An unknown number of patients were taken by force by the red berets, who also took bodies with them. Some of the injured nevertheless managed to escape and others were hidden by the hospital staff. The Minister of Health arrived at Donka Hospital, where he ordered doctors not to treat patients. He also reportedly kicked one of the patients. Military control over the Ignace Deen and Donka hospitals continued to increase and was not lifted, at least over the morgues, until 2 October, when victims' bodies were displayed at the Faisal Mosque.

69. Meanwhile, red berets and Thégboro's gendarmes began physically assaulting people in the local neighbourhoods, or at roadblocks, and robbing them. Captain Pivi and his men occasionally fired at individuals while patrolling the streets.

C. Description of the violations committed on 28 September and in the immediate aftermath

70. The Commission interviewed 687 witnesses, victims and relatives of victims, as well as officials from the clinics and hospitals that treated the injured. The Commission has verified the identity of 156 persons who were killed or who disappeared: 67 victims whose bodies were recovered and buried by their families; 40 other persons identified by their names who were seen dead in the stadium or in morgues but whose bodies have not been found; and 49 other identified persons who were seen in the stadium but whose fate is unknown. Furthermore, the Commission has received reports which mention that unidentified bodies were moved, which could increase the death toll. The Commission has also been able to confirm 109 cases of rape or other acts of sexual violence and hundreds of cases of torture or cruel, inhuman or degrading treatment, as well as theft and looting. Dozens of people were arrested and arbitrarily detained at the Alpha Yaya Diallo and Kundara military camps as well as the CMIS camp, where they were tortured. However, given the insecurity and fear that persist in Guinea, the Commission's limited time for its work on the ground and the thousands of demonstrators present in the stadium, it is highly probable that the number of victims of all these violations is higher.

1. Description of the attack

71. The main point of entry to the 28 September Stadium is on the Donka road and is accessed via an esplanade, known as "the terrace", where a police stadium outpost is also located. This main access point leads onto a large courtyard known as "the stadium complex". Other facilities are also located within the complex, such as a basketball court and a stadium "annex", as well as the main stadium with two

main entrances and one entrance under the covered podium leading to the field (on the west side of the stadium). There are also several additional gates which lead from the stands to the stadium exit. The stadium complex also has secondary access points which open onto the University road and onto the road to the west side of the stadium, which leads to Madina bridge (see the stadium plan annexed to this report).

72. The different phases of the attack can be described as follows:

(a) The crowd filled the stadium;

(b) Red berets, gendarmes and militia cordoned off the stadium complex. CMIS agents fired tear gas inside the stadium and gunshots were heard. Soldiers and gendarmes were deployed inside the stadium complex;

(c) Gates to the side of the stands were closed by unidentified civilians;

(d) A group of red berets occupied the stadium and spread out onto the field and the stands, before opening fire on unarmed civilians. This caused panic among people, who tried to flee;

(e) Red berets, particularly those posted at the western entrance to the stadium, opened fire on the crowd, who retreated back inside the stadium causing a stampede in which many people lost their lives;

(f) Some of the secondary access points to the stadium were blocked, either by the presence of soldiers or by demonstrators who had fallen over each other in the panic;

(g) Those who managed to exit the stadium were pursued inside the complex by armed men, who wounded or killed those who had fallen as well as those trying to help other victims;

(h) Some demonstrators trying to jump over walls were electrocuted by electric cables that had been cut down by soldiers;

(i) Meanwhile, inside the stadium and within the complex (particularly on the basketball court, in the stadium annex and by the wall facing the University), red berets committed acts mainly involving rape and sexual violence;

(j) Victims who had escaped being killed or raped attempted to exit through the main entrances to the stadium complex, where gendarmes, police and militia, lined up on all sides of the demonstrators, systematically robbed and beat them all upon their exit;

(k) Those who had jumped over the stadium complex walls running along the south side (towards the highway) were intercepted mainly by red berets and militia, who proceeded to carry out executions and to commit acts of ill-treatment and rape on the railway line.

73. The specific characteristics of each violation are described in detail below.

2. Summary executions and attempted executions

74. The Commission has documented a total of 67 deaths, including some by summary execution. These figures include only those victims whom the Commission has been able to identify from witnesses stating the circumstances of

the summary execution and testifying that the victims' bodies had been found and buried. These cases include adults (men and women) as well as children.

75. The assailants used pistols, AK-47 machine guns, arrows, bayonets, daggers, clubs, studded batons and slingshots. The survivors bear scars on vital parts of their bodies from bullets, daggers, rifle butts and sharp-edged batons. Several of the victims' bodies were returned to their families with shots to the head, thorax or ribs. Moreover, using deadly weapons against unarmed civilians, opening fire with live ammunition and without any warning into the packed crowd gathered on the field, emptying rounds of bullets and targeting vital parts of the body, including vital organs — these are all indications of the premeditated intention to maximize casualties among demonstrators.

(a) Persons killed before the opening of the stadium

76. The first violations of the right to life occurred before the opening of the stadium. Between 8 a.m. and 9 a.m., some 300 metres from the terrace adjacent to the stadium, an 18-year-old boy was killed by a police officer after crossing a red line drawn by the police, who had forbidden the crowd to pass that point en route to the stadium. A little later, during another altercation with the crowd, Thégboro's gendarmes, in the presence of their Commander, shot at least two other young men on the terrace. At the Bellevue crossroads, while security forces tried to disperse the crowd, Thégboro's gendarmes shot at least two persons, including a shop security guard and a demonstrator. According to some witnesses, at about 9.30 a.m., a truckload of red berets arrived at Koloma market, where soldiers shot three persons, killing two of them.

(b) Persons executed inside the stadium

77. Red berets under the command of Lieutenant Toumba entered the stadium and positioned themselves in a semicircle, spraying gunfire directly at people in the direction of the stands to the left of the main stadium gate (towards the north), into the crowd gathered on the field and into the first rows of stands (towards the west), thereby indiscriminately killing dozens of demonstrators. Some demonstrators were shot by red berets inside the stadium as they attempted to exit through the gates or to climb the stadium wall. As the bodies of victims piled up on the field, other demonstrators, in a state of panic, ran off in all directions to save themselves. Several survivors maintain that the red berets fired their ammunition until it ran out and that, after that, they continued the slaughter using their bayonets, rifle butts and daggers or knives.

78. The closure of gates and emergency exits and the presence of armed men at these exits forced several demonstrators to attempt to scale the walls. Those unable to do so, in their attempt to escape, had to make their way past two rows of red berets positioned in front of the main exits.

(c) Persons executed on the esplanade

79. Persons who managed to exit the stadium were fired upon by red berets, gendarmes and Thégboro's gendarmes inside the complex. Demonstrators inside the stadium and within the complex were stabbed or beaten with bladed weapons, rifle butts, pieces of wood, clubs and electric cables, among other things. Soldiers killed women who had been raped by shooting them through the vagina.

(d) Persons executed for providing assistance to a person in danger

80. Several people were shot to death inside the stadium complex while attempting to assist injured persons and rape victims. In one incident, a young man was fatally shot trying to help a woman who had been stripped naked; the woman was then raped. In another incident, a man trying to help a boy to his feet was stabbed by a member of the red berets. It should be noted however that some gendarmes helped demonstrators to escape by opening the Pharma Guinée side gate.

(e) Persons executed by electrocution

81. Electric cables were cut down by red berets and militia, then used to electrocute demonstrators as they escaped. Persons were electrocuted on the soccer field, on the fencing separating the stands from the field and at some of the gates opening onto the grounds, which prevented people from leaving the stadium and made them targets for the soldiers' bullets. Many witnesses have reported that the same technique was used at gates for exiting the stadium complex and with barbed wire on the walls facing the University. The Commission's forensic medical expert has confirmed that there were injuries due to electrical burns.

(f) Execution of the injured

82. Several witnesses saw soldiers kill the injured, both with their guns and with their knives. Inside the stadium complex, an unidentified commander killed two injured persons stretched out on the ground who were still moving. A blindfolded woman, who had been raped, had her throat cut by a soldier the moment that she removed the scarf from her eyes.

(g) Persons executed after the stadium killings

83. Following the massacre inside the stadium, several cases were reported of summary executions of the survivors as they returned home. Red berets also captured 23 men in the vicinity of the stadium (in the direction of Dixinn) and forced them to climb into tarpaulin-covered military trucks. They were then taken to an unidentified building. On the night of 28 September, soldiers made them leave the building in groups of two or three until only four of them remained inside. The remaining four were then taken behind the building, where they discovered the lifeless bodies of the 19 others laid on the ground. Although these persons were dead, they had no visible wounds or blood on their bodies. The four survivors were forced to load these bodies into a truck. The soldiers then tied up their arms, blindfolded them and led them to an unknown location where they forced the survivors to dig four pits, into which the 19 bodies were buried. The soldiers cut the arms and legs off some bodies to make them fit more easily into the pits. The four survivors were then moved to another location where they were held, still tied up and blindfolded, for three days. The four victims were not moved again until 1 October, when they were thrown into a river in Sonfonia. Some of them survived.

(h) Persons killed in crowd stampedes

84. A large number of people suffocated or were trampled to death in crowd stampedes, which were compounded by the use of tear gas. As demonstrators tried to flee the football field, red berets posted outside the main gates opened fire, killing

some of them and causing the panicked crowd to retreat back inside the stadium. Several witnesses reported people being crushed to death by the crowd.

(i) Persons killed or injured by stray bullets

85. On 28 September, a 12-year-old boy watching television at home (in the Dixinn neighbourhood) was hit in the head by a stray bullet. Taken to hospital immediately, he died from his injuries several days later. A girl admitted to the Matam Communal Medical Centre, then transferred to Donka Hospital, was also injured by a stray bullet on 28 September 2009.

3. Forced disappearances

86. The Commission has documented 89 cases of forced disappearance. In 49 cases, the victims, who were present at the stadium, have not been seen since and their fate remains uncertain. The remaining 40 cases involve the bodies of victims of the events which were removed and subsequently disappeared. There are also cases in which death certificates indicating the cause of death were drawn up by doctors but the bodies were not handed over to the families. The Commission received information about other cases of forced disappearance which could not be verified.

(a) Persons who were seen alive at the stadium on 28 September 2009 and have not been seen since

87. The 49 missing persons, who were seen alive at the stadium by witnesses on 28 September, have not been seen since the events took place. In general, on the same day or the day after the events, family members or relatives of missing persons searched for them in hospitals, morgues and military detention centres such as camp Alpha Yaya Diallo, camp Kundara, camp Samory Touré or camp Boiro. The families and relatives of missing persons stated that they also looked in other police detention centres such as the CMIS Cameroon station, or in gendarme stations like PM3. Some family members even travelled in vain to the island of Kassa in search of their missing relatives.

(b) Wounded or dead persons seen at the stadium or in morgues but whose bodies have not been recovered

88. The remaining 40 persons, now missing, were seen at the stadium by their relatives wounded or dead on 28 September. Most of the dead were seen in the Donka or Ignace Deen hospital morgues. The bodies of certain victims, who were identified by demonstrators when they were loaded into vehicles at the stadium and whose identity papers were salvaged by demonstrators or who were recognized by family members on the basis of photographs taken at the time, have never been recovered, including from among the bodies displayed at the Faisal Mosque on 2 October before burial in the Cameroon cemetery or elsewhere.

(c) Other cases of forced disappearance

89. Witnesses have testified that a number of persons disappeared after their arrest inside or outside the stadium, during the events or the following day. Others were abducted from the Donka or Ignace Deen hospitals while being treated for wounds sustained during the events. Those persons have never been seen again. Witnesses

have told the Commission that these arrests and abductions were mainly the work of the red berets.

(d) Removal of dead bodies

90. Some of the disappearances may be explained by the fact that the bodies of some victims were carried away in military trucks.

91. In one of the cases investigated by the Commission, an unidentified army captain at the stadium gave an order in the early afternoon for the civil protection services to gather up the corpses and load them onto three military trucks for transportation to the Ignace Deen hospital. There were 43 corpses in the first truck and 22 and 13, respectively, in the other two, making a total of 78 victims. The bodies were mainly those of young men with gunshot wounds but witnesses also identified other types of wounds and the bodies of women and of a few children. At the hospital, the same captain, presumably acting under new orders, instructed the drivers to go to the residence of the late Lansana Conté at camp Samory Touré. In the afternoon of 28 September, an unidentified police officer gave the order to assemble the wounded and the dead, leaving aside those who showed signs of violent death. Three military trucks arrived on the scene, one after the other, and carried away 25 and 7 corpses, respectively, to camp Samory Touré. The trucks were parked inside the compound of the late Lansana Conté residence.

92. The various cases of forced disappearances are attributed to the red berets, who are also thought to be responsible for removing the bodies.

4. Rape and other forms of sexual violence

93. The Commission can confirm that 109 females, including a number of minors, were victims of rape and other forms of sexual violence. Five of them, who have been identified, were abducted and held as sex slaves together with an unspecified number of other victims.

94. Raping and other forms of sexual violence began almost immediately after the security forces entered the stadium. They took place during the entire period of the events in the stadium and continued during the period while certain women were detained and others held as sex slaves.

95. There have been accounts of rape and other forms of sexual violence committed everywhere in the stadium itself and surrounding area (see map of stadium in annex), but mainly in certain areas and locations, especially in the stands and on the stadium grounds, as well as in the buildings and courtyards of the stadium. Female victims of rape and other forms of sexual violence in the stadium complex were sometimes trapped in courtyards or buildings with no exit, where they had tried to take refuge or had been taken by armed men to be raped.

96. Although it has been two months since the events of 28 September, the Commission's medical and legal expert has observed bruises in the upper third of the inside of several women's thighs, and lesions in the genital area that are consistent with severe sexual violence and strongly suggestive of such violence. Pain and itching in the vulva and vaginal areas and the foul-smelling vaginal discharges of which victims complained, as well as the symptoms of severe urinary infections reported by the women are also consistent with rape and occur frequently in such cases. The precise number of victims infected with HIV through rape or

other forms of sexual violence will probably never be determined, since many victims did not seek medical treatment and therefore were not tested. Some of the victims tested have already received positive results after four weeks, the amount of time medically necessary for the tests to be conclusive. Some of the victims were virgins prior to the events of 28 September, evidence that their positive test results might be linked to the sexual violence of which they were victims. Some victims will have to undergo additional testing after a three-month interval in order to obtain conclusive results. Many victims present symptoms that are consistent with sexually transmitted diseases and severe urinary infections that develop after rape. The victims with whom we spoke in clinics and hospitals were still suffering from severe psychological after-effects and in some cases from post-traumatic stress disorder.

97. The perpetrators have been identified as mainly red berets as well as men in military uniform and men wearing black. Among those who were dressed in black, some were hooded or carried weapons.

98. A number of victims gave accounts of what the perpetrators said while committing the acts of rape or otherwise sexually assaulting them. Those accounts suggest that the women were targeted because their presence in the stadium was an indication of political engagement ("I'm forced to do this because I'm not the one who sent you here", "You're the one who doesn't want Dadis?") and this engagement was explicitly associated with a lack of respectability. The acts were often accompanied by insults with the victims being called "sluts" or being told, "You whores, you came here to look for men".

(a) Sexual violence other than rape

99. The Commission confirmed 21 cases of sexual violence other than rape committed in various parts of the stadium and attributed to the red berets and gendarmes.

100. Women were undressed, often by force and the use of knives and even scissors in some cases. They were forcibly touched in the vagina, breast and buttocks areas. At least five of them were beaten in the abdomen and genital area with batons, clubs, rifle butts or knives. One of them was beaten with an electrical cord. Some victims were on the verge of being raped but managed to escape or to take advantage of the momentary panic caused by the arrival of other demonstrators.

101. Many women left the stadium half or completely naked. Some of them, however, may have lost their clothes during their escape and in the scramble. They were taken in by neighbourhood residents and given clothing.

(b) Rapes

102. The Commission identified 77 acts of rape committed by one or several perpetrators — up to six in one case — which were often accompanied by other forms of extreme violence.

- (i) Rape by one individual

103. Thirty-five women were raped, 12 of them by hand or with objects, such as bayonets, batons, pieces of metal, clubs and/or rifle barrels. In a number of cases, there was evidence of a deliberate intention to injure the vagina of the woman and

several victims needed medical treatment and/or continue to suffer pain in the lower abdomen two months after the acts had been committed.

104. Most of the women were threatened with death while being raped at gunpoint and/or were struck before and/or after being raped. Some were slapped in the face and others struck on the head or in the abdomen with rifle butts or batons. Some were also deliberately injured with blades. The few people who tried to defend the women and prevent the rapes were beaten, shot and wounded, or even killed.

105. All the rapes took place on the stadium grounds, most of them on the side where the University is located, except for a woman who was raped near the railroad tracks — having just escaped from the stadium complex unharmed — by an armed man dressed in black.

106. In three cases, the victims could not identify the authors of the crime because they had fainted before the act was committed. In fact, one victim regained consciousness only two days later. Doctors informed two of the victims that they had been raped, and the third thinks she was raped because of vaginal itching.

- (ii) Gang rapes

107. Forty-two women were raped by more than one soldier. These rapes were sometimes accompanied, before or after, by penetration with objects or the hand. They identified the perpetrators of these acts as the red berets, some of them hooded, the Thégboro gendarmes and a few militiamen.

108. The victims were raped by turns. One or two soldiers held the victim, often crushing her legs, while a third penetrated her. Sometimes one of the perpetrators held his weapon against the victim and threatened to kill her while the others raped her. Often the rapists inserted a hand, club or cudgel inside the victims. The perpetrators stomped on the vagina of some women with their feet or kicked them before or after raping them. One victim, who was three months pregnant, lost her child that same day after being kicked in the lower abdomen. Some victims were sodomized.

109. At least two victims were raped by two different groups of soldiers in places well outside the stadium grounds. The group was sometimes as large as six persons, who took turns raping the women. Some of the victims lost consciousness after the initial assaults and could not tell the number of times they had been raped.

(c) Sexual mutilations and murders

110. According to certain accounts, at least six rape victims were sexually mutilated or killed after weapons were inserted or guns fired into their vaginas. The Donka hospital received one such victim who succumbed to her injuries on 28 September. Sometimes a woman's breast was mutilated.

111. A number of rape victims were subsequently executed. As corpses showing signs of violent death were generally not returned to families and no autopsies were performed, it is difficult to estimate the exact number of victims.

(d) Sexual slavery

112. The Commission interviewed four victims who had been confined for three to five days and subjected to gang rape and other forms of sexual violence. According

to the information they provided, the victims were held in at least two places. It has not been possible to determine the number and identity of other kidnapping victims. The Commission is therefore unable to reach any conclusions as to their fate.

113. One victim reported that she was taken directly to camp Alpha Yaya Diallo with about 20 other women and men. She was held there for three days on the third floor of a military building and raped by several men — one of whom she identified as someone named Marcel — who, moreover, photographed and filmed her. She managed to escape but does not know what happened to the other persons who had been taken there with her in the same vehicle.

114. The other three victims, one of whom had already been raped at the stadium by five red berets, reported being taken by soldiers to the Ratoma medical centre. Some of the women, who had already gotten down from the truck, were forcibly removed from the crowd as they were preparing to register, while others were simply transferred by force from one vehicle to another on the grounds of the medical centre. Some of the victims stated that they had been selected from among the group of women present at Ratoma.

115. Two victims from the Ratoma centre and one who had come directly from the stadium were taken together with a group of other women by unmasked men to several villas. One of the victims identified her abductors as members of the red berets. Some victims were struck on the head during the trip so that they would not be able to recognize their abductors or the route taken. Others were blindfolded.

116. The women who testified before the Commission said that, upon their arrival at the villas, they were drugged by substances that had been poured into drinks. One victim recounted that the men had shot two girls in order to force the others to eat and drink, and another stated that she had been stabbed with a blade in her breast and abdomen after refusing a coffee. Some women were locked in individual rooms while others were held in groups. Because of the drugs, the women do not know how many men had raped them, but they were all sufficiently conscious to remember that they had been filmed and/or photographed. One victim also said that all of the perpetrators wore hoods, that they spoke French, Susu and English and that one of them was a "commander" and another, a "captain".

117. One of the victims explained that there had been about 20 women initially, but that after five days only six of them remained. Another testified that she had been freed with the same seven to eight women with whom she had been transported in the same vehicle. The women who were freed were dropped off practically naked in their respective neighbourhoods. One woman, who found two of the victims in her yard on 2 October, described them as appearing drugged, staggering about and barely able to speak.

5. Torture and cruel, inhuman or degrading treatment

118. During the events of 28 September, the red berets, Thégboro's gendarmes, mobile gendarme units, police officers, and militiamen systematically inflicted torture and cruel, inhuman or degrading treatment on the demonstrators, both inside and outside the stadium.

119. The attackers deliberately and systematically beat the demonstrators, even when they attempted to escape from the stadium by climbing the walls, for example, or when they were already being held in detention centres. The beatings were

accompanied by a barrage of insults and ethnically or politically charged remarks, such as "You Peul are vermin and we will kill you all", "You Peul will never get into power" and "Who told you to come to the stadium?". Some of the victims were forced to chant "Long live Dadis" or "Long live the CNDD".

(a) Inside the stadium

120. After they ran out of ammunition, the soldiers began attacking the demonstrators with knives, bayonets and rifle barrels or butts. They aimed for vital or sensitive parts of the body such as the head and eyes, but also the lower abdomen and genitals, as well as the upper and lower limbs. Thégboro's gendarmes and attackers in civilian clothes (in T-shirts or athletic shirts) or wearing red bandannas on their foreheads and fetishes on their bodies were armed with knives, machetes, clubs and planks or pieces of wood with nails sticking out of them which they used to hit and wound demonstrators trying to escape the shooting. The police, most of whom carried truncheons or sticks, but some of whom had knives, joined in the attacks on the demonstrators, including on those who already had bullet or stab wounds.

121. The soldiers, gendarmes, police and the other personnel in civilian clothes who were helping them to hunt down the demonstrators rained slaps, punches, kicks with booted feet and lashes with belts on those they were pursuing. Some demonstrators were thrown to the ground and others, including women, were stripped of their clothing. Some members of the security forces applied the still-hot barrel ends of their guns to their victims, inflicting terrible burns. Some even bit demonstrators hard on the arm or the ear. The soldiers sowed terror among some demonstrators by training their guns on them at point-blank range and threatening them with instant death.

(b) Outside the stadium

122. Acts of torture similar to those described above also took place outside the stadium. Most of these were attributed to the red berets, who, after dislodging the demonstrators from the stadium, combed the immediate area outside to hunt down even those who had tried to take refuge in neighbouring houses or yards. In other instances, soldiers on patrol in various parts of the city entered people's homes and tortured them. This occurred in the Hamdallaye, Dixinn and SIG Madina districts and in the homes of political leaders, including the home of Cellou Dalein Diallo, whose domestic staff were beaten. The police have also been accused, for example by a demonstrator who had escaped from the stadium and who reported that on his way home he had been beaten by police at the Bambeto petrol station.

(c) Abuse in detention centres

123. Those arrested by the security forces during the events of 28 September 2009 and the days following were held, in some cases for days or weeks, in various detention centres, the principal ones being camp Alpha Yaya Diallo, camp Kundara, the PM3 gendarmerie barracks and the Cameroun CMIS barracks.

124. The former detainees from camp Alpha Yaya Diallo interviewed by the Commission reported that the Thégboro gendarmes guarding them in a room on the second floor, near the commander's office, beat them every day with clubs, pieces of wood, their booted feet and even with their rifle butts.

125. Former detainees from camp Kundara stated that they were rarely fed and that the soldiers guarding them beat them regularly with whips. Some were forced to lie on a hot cement floor in the middle of the day while soldiers inflicted unbearable pain by pouring hot water on them. One camp Kundara detainee even died as a result of the abuse inflicted on him by the red berets. His body was apparently left with the other detainees for three days before soldiers came to remove it after going through his pockets and removing all documents.

6. Arbitrary arrest and illegal detention

126. During the events of 28 September 2009 and the days following, the security forces arrested demonstrators and, at times, also members of the general public. Those arrested were detained in various military, police or gendarmerie centres.

(a) Arbitrary arrests

127. Demonstrators at the stadium were arrested by red berets, Thégboro's gendarmes, mobile gendarme units and CMIS police. The same security forces also arrested demonstrators escaping or trying to return home, as well as members of the general public, in the area around the stadium but also in the city. In one reported case, the red berets arrested a visitor to the hospital. Men and women alike were targeted. Those arrested were taken away in military vehicles or in vehicles belonging to the gendarmerie or police.

128. The security forces also made arrests in the days following the events of 28 September. Most were made by red berets combing particular districts or patrolling certain areas of the city, in particular the Ratoma neighbourhood. According to some reports, the relatives of those arrested were themselves arrested while searching for their family members in the various detention centres and sometimes detained, particularly in the Alpha Yaya Diallo and Kundara military camps.

(b) Illegal detention

129. Those arrested were detained at such locations as camp Alpha Yaya Diallo, camp Kundara, the CMIS Cameroun barracks, the Kaloum No. 1 mobile unit barracks and the PM3 gendarmerie barracks.

130. Those arrested or put in detention by CMIS or gendarmerie officers generally spent anything from a few hours to two days in custody before being released. However, the larger number of people arrested by the red berets were taken to military camps and held for anything from a few days to a few weeks. One former detainee arrested at the stadium on 28 September reported being held in camp Kundara for 40 days. Some people were held in a succession of detention centres, usually belonging to the same security force. Many accounts indicate that people were held at camp Alpha Yaya Diallo (commander Thégboro's headquarters) and then taken to PM3, where they were kept for several hours or days.

131. Some people were freed only after their relatives had paid substantial sums demanded by the soldiers, police or gendarmes holding the detainees, or only after friends or relatives had intervened. No charges were brought following these arrests.

7. Systematic robbery, looting and extortion

132. Nearly all the victims of the stadium events reported to the Commission that they had been subjected to systematic robbery. Those exiting through the main gate were ordered to surrender everything (especially money and portable telephones) to the security forces stationed there, who often resorted to violence. The red berets robbed their victims everywhere. Dozens of persons were stripped of all their clothing and possessions. The pockets of the dead were also emptied. At least three journalists had their materials stolen, including all the recordings and images they had made.

133. The robberies began in the morning. One victim, who had gone to the Donka Hospital to search for his wife, was stopped near the entrance by three truckloads of red berets and was stripped of his motorbike, money and mobile telephone. The red berets pursued their victims into residential neighbourhoods; for example, they set up roadblocks near camp Alpha Yaya Diallo and stopped all passers-by in order to empty their pockets and in some cases to take their cars. Near the stadium, and especially at the Cosa roundabout and in nearby streets, stores were looted and supplies and goods carried off. The Commission found one victim whose Internet café had been completely ransacked and who reported that at least two other Internet cafés in the same area had suffered a similar fate. That same day, the residences of Cellou Dalein Diallo and Jean-Marie Doré were ransacked by red berets, who stole furniture and vehicles. The same red berets also showed up at the residence of Sydia Touré, but did less damage.

134. Many people were forced to pay sums of money in order, for example, to get out of camp Alpha Yaya Diallo (money paid to a soldier), to obtain information about those killed or detained, to view or recover corpses, or even to have X-rays taken.

135. The robberies and looting continued over the following days. On 1 October, the red berets roamed the Hamdallaye neighbourhood and looted several houses.

8. Restriction of access to medical assistance

136. Based on several eyewitness accounts collected by the Commission, the wounded experienced numerous problems in getting access to medical assistance during the events of 28 September and over the following days, contrary to the accounts of official sources like the Ministry of Health, the Crisis Committee, and the directors of the Donka and Ignace Deen hospitals. Moreover, the procedures adopted in the morgues were also inappropriate, as these contributed to making it impossible to identify corpses.

(a) Restriction of access to hospitals

137. Following the events at the stadium, many of the wounded required transportation to hospitals and owing to the shortage of available ambulances, private vehicles had to be pressed into service. Many wounded waited too long for help to arrive, while others, though seriously injured, had to seek aid on their own. As a result, some persons died where they had been assaulted. Soldiers blocked ambulances from picking up the wounded and evacuating the dead from inside the stadium itself until late in the afternoon. According to some eyewitnesses, the red berets instructed the Red Cross not to help the wounded and not to transport them to

hospitals. Soldiers loaded some of the wounded onto trucks at the stadium entrance and took them away to an unknown destination. They set up roadblocks on the routes to the hospitals, stopping ambulances with threats to their drivers and forcing the wounded out, beating and berating them. In one incident, Captain Pivi, accompanied by red berets, ordered that the victims should not be treated and had them removed from a Red Cross ambulance and taken to camp Alpha Yaya Diallo.

138. Red berets raided the Donka hospital several times during the afternoon and evening of 28 September. News of the arrival of the red berets circulated throughout the city, with the result being that even the wounded in the stadium refused to go to Donka during the afternoon after hearing that some of the wounded had been taken there. The Red Cross also chose to take those wounded persons who were able to walk, particularly rape victims, to the homes of private individuals rather than to the Donka hospital.

(b) Military takeover of the hospitals and restriction of access to medical care

139. The allocation of wounded to the various health-care facilities was completely uncoordinated, with the result that the majority went to the Donka Hospital, the facility closest to the stadium. Soldiers came to the hospitals, especially Donka, and removed wounded who were awaiting medical attention, in particular the most seriously injured and women who had been raped. They sometimes intimated that these people were going to be taken to other clinics, but the whereabouts of some of them remain unknown. After a number of incidents, soldiers from camp Samory Touré and/or other green berets arrived to secure the hospital. At about 6 p.m., red berets surrounded the hospital and took control of it, insisting that the wounded provide justification before being moved to different care facilities.

140. Some doctors and nurses, who hid some of the wounded and who had been appalled by the attitude of the soldiers, were threatened and beaten; they were forced to reveal the location of the wounded and the dead and to surrender medical records. The red berets confiscated medical records during the period from 28 to 29 September. Diagnoses that could facilitate the evaluation of the scope of the violence committed on 28 September, especially those describing rapes as pelvic bruising, were concealed by hospital authorities. Some families who had come to the hospital on the morning of 29 September to try to find relatives were informed by the emergency services staff that the patient registry had been confiscated by soldiers during the night. The number of persons who sustained bullet wounds cannot be determined on the basis of the report of the National Health Crisis Committee provided to the Commission by the Ministry of Health, because that report does not provide such information systematically. It is nevertheless possible to deduce that a minimum of 128 persons were wounded by gunshots and 98 by bladed weapons. Similarly, rape victims were not counted unless the rape was confirmed by the Donka gynaecological service, regardless of whether care had been provided by other services in the hospital, especially the psychiatric service.

141. In some cases, the red berets attempted to prevent doctors from treating the wounded. Some victims fled the Donka hospital without treatment because they were afraid of the soldiers there. The gendarmes spread a rumour that the red berets were coming to the hospital to search for certain persons, also causing people to flee. The red berets destroyed the central pharmacy at Donka and threatened people who went there to fill prescriptions. The Minister of Health, himself a doctor by

training, came to the hospital in person and accused the doctors there of being con artists and even kicked one of the wounded. He demanded that treatment be denied to the wounded and snatched medicine out of the hands of some patients. One of the Minister's bodyguards aimed his weapon at a trauma doctor who had come to the pharmacy to get medicine, and other doctors were beaten there. As a result, many wounded left the hospital without any medication, which they could not afford to buy at any other pharmacies.

142. Some of the wounded whose bone fractures had been documented by X-rays were discharged from the hospital without receiving medical treatment (such as the application of plaster casts), and were not treated until several days later at other medical facilities. Some patients were required to pay for the necessary X-rays, and by the time of the Commission's visit had still not been contacted by the hospital to schedule a trauma examination or possible surgery. A number of wounded who fled Donka were refused treatment by doctors when they returned to the hospital some days later. Many of the victims who testified before the Commission still require medication and medical follow-up, especially psychological, medical and social care, but the national hospitals lack the staff to meet their needs.

143. Hospital staff were ordered by the Donka hospital administrators to conceal diagnoses and to release no statistical information. Moreover, the Commission's efforts to contact doctors and patients were initially disrupted by the administrators of the national hospitals. When a doctor from the Commission later met with some fifteen members of the nursing staff, they were afraid to speak and would not do so at their place of work (four of the nurses contacted the Commission privately, but were unable to testify before the Commission's departure from the country). Following the Commission's visit on 1 December, doctors at the Ignace Deen Hospital were also instructed not to speak about the events of 28 September. The director of Donka Hospital, Dr. Fatou Sikhe Camara, told the Commission that detailed accounting of the victims had been discontinued, because the people now coming to the hospital were no longer among those injured during the events of 28 September and were simply seeking to profit from any future compensation.

(c) Restriction of access to corpses of the dead for purposes of identification

144. According to the forensic medical expert, the two morgues at the Donka and Ignace Deen Hospitals received a total of 58 corpses during the first four days, 43 of which were brought in by army trucks at about 11 p.m. on 28 September. Some of these corpses already showed signs of decomposition. Some 24 corpses were deposited at the Ignace Deen morgue and 34 at the Donka morgue, although the cold rooms at each hospital were designed to accommodate no more than 10 corpses at a time. No reliable methodology was put in place for the identification of corpses. All clothing was removed from the deceased and even though some had been carrying personal effects, no registry was set up to facilitate eventual identification by family members, and the corpses were not even photographed. The lack of sufficient cold storage rooms and the failure to embalm the corpses correctly owing to the lack of formaldehyde, along with the high temperatures prevalent in September, led to the rapid decomposition of the corpses. These conditions, combined with the inability of relatives to promptly identify the bodies in the morgues, meant that identification of some of them was no longer possible when they were displayed at the mosque, leading to the incidents of 2 October.

145. The red berets began limiting access to the morgues at around 6 p.m. on 28 September, and some corpses were left there until 2 October. Morgue access was forbidden for the relatives of persons who had died at the stadium and had been brought to the morgues, for the relatives of persons who had succumbed in hospital as a result of wounds inflicted on 28 September, and even for the relatives of some people who had died prior to the events of 28 September. At the Donka Hospital, the red berets told relatives who arrived early on the morning of 29 September that they were awaiting the orders of their commanders to display the corpses. Over the following days, the red berets also told the relatives that the Minister of Health had ordered that not a single corpse should be touched.

146. Despite the military takeover of the morgues, some eyewitnesses saw the corpses of their relatives in the Donka mortuary hall, and some were even able to recover them after paying a sum of money. At Ignace Deen Hospital, some relatives obtained informal confirmation as late as 30 September that the bodies of their relatives were in the morgue, but they never recovered them. Eyewitnesses also reported seeing many corpses behind the morgue inside the hospital, with the odour of decomposition pervading the area. Some of the corpses brought to the Faisal Mosque on 2 October were in an advanced state of decomposition, and, lacking identity cards or other means of identification, roughly half of these corpses could not be identified; they were buried by volunteers in the Cameroun Cemetery.

D. Reaction of the Government to the events

1. The events as described by the authorities

147. In the view of the authorities, the tactical response of the national police and the Gendarmerie Nationale was appropriate in the light of the unauthorized nature of the demonstration and of information obtained regarding the way it unfolded. It rapidly became clear, however, that the measures taken in that response were inadequate to deal with the large number of demonstrators, which had been underestimated, or with the aggressive behaviour towards law enforcement personnel on the part of a small number of them, which resulted in damage to vehicles and buildings and injuries to police and gendarmes from physical assaults and stone-throwing.

148. The initial phase of riot control properly speaking began at about 8 a.m. when the first concentrations of people moving towards the stadium appeared on the outskirts of the city and continued until the arrival of the demonstrators in the stadium. This phase has been thoroughly documented and described by the authorities. The first incident they cite is the damaging and looting of a CMIS truck just outside Hamdallaye, followed by the attack on the Bellevue central police station, which was emptied of materiel and weapons and set on fire, as were numerous vehicles. According to the inventory prepared by the national police, 5 AK-47 assault rifles, 9 SKS semi-automatic carbines, 3 shotguns, eight .44 calibre carbines, 2 packs of Colt .45 ammunition and 20 packs of cartridges were stored at the Bellevue police station, all of which were taken by demonstrators who then departed towards the stadium.[21] Near the esplanade of the stadium, law-enforcement

[21] The Guinean authorities provided the Commission with a video showing two persons in civilian clothes, each holding a weapon, in front of the Bellevue police station.

personnel again attempted to disperse the growing crowd, hailing them several times, but were forced to fall back before the human tide coming down from Bellevue. At this point, some demonstrators ransacked the stadium police post, while the rest of the crowd forced open the stadium entry gates. The final action of the law enforcement personnel, in particular the CMIS with its Mamba armoured vehicle, was to clear the demonstrators obstructing the public roadway, while gendarmes and police officers pushed the crowd back towards the esplanade using truncheons and tear gas but not firearms.

149. The second phase of the events of 28 September, beginning with the entry of the red berets into the stadium, elicited no response from those commanding the security forces, who took refuge behind the fact that they were not themselves present and that their personnel remained outside the stadium complex. According to statements by Lieutenant Toumba and Captain Pivi, the Minister for Presidential Security, no more than eight red berets, under the command of Lieutenant Toumba, went to the stadium to protect the political leaders from their attackers and to arrest any military who had not obeyed the order to remain in barracks. The presence of approximately 30 armed red berets in pickups when shots were fired inside the stadium (they had arrived by the 8 November bridge from camp Alpha Yaya Diallo and possibly also from the Kundara barracks in the city) was nevertheless confirmed in statements by police and gendarmes, who, however, were unable to identify any of them and maintained that they had seen nothing of what went on in the stadium itself. The reason for this intervention by the red berets, who were not in any case responsible for maintaining order, at a time when the demonstrators no longer presented any threat to public order, since they were within the confines of a supervised area, has not been explained by any of the security force experts who were questioned. According to some of the authorities, these red berets were probably civilian delinquents recruited by opposition parties and dressed in fake uniforms. Two civilians arrested by Commander Thégboro's gendarmes, one from Sierra Leone and the other Guinean, were interviewed by the Commission. They said that they had been recruited by a militant who was close to a political leader and were paid to go to the stadium on 28 September armed and wearing the uniform of the red berets.

150. The allegations of rape are regarded as improbable, both for practical reasons and in view of the culture of Guinea; furthermore, in the eyes of the authorities, such acts were physically impossible since they estimate that the violence lasted no more than 15 to 20 minutes. Although one representative of the security forces states that he witnessed the disappearance of corpses, removed from morgues by order of the red berets, the police and the army deny any use of their vehicles or personnel for this purpose. Lastly, in the days following 28 September, only everyday incidents were reported in local neighbourhoods and all those questioned by the police or gendarmes were released at the end of their detention.

151. The Commission has concluded that the authorities' version of the developments preceding the events that took place in the stadium and surrounding areas — the demonstration and intervention by the security forces — was confirmed only in part by the testimony it heard and the images it saw. A review of the information on the attack on Bellevue police station[22] suggests that, while persons

[22] In particular, some images showing armed civilians leaving Bellevue and heading for Hamdallaye — i.e., in the opposite direction from the demonstrators — and the testimony of a member of the security forces who was in Bellevue at the time.

dressed in civilian clothes did indeed steal weapons belonging to the national police, these individuals did not then head for the stadium since some of them were later seen walking in the opposite direction from the demonstrators, in other words, towards neighbourhoods on the city's outskirts. Those involved could therefore have been delinquents who mingled with demonstrators in order to commit offences, as seems to be borne out by the statements of one detainee, made available to the Commission by Commander Thégboro, who had in his possession a gun presumed to have been taken from the Bellevue police station and which had been used in late October in the commission of a robbery. No witnesses, however, claimed that these guns were seen in the stadium. Furthermore, the authorities' version makes no mention of the five victims who were shot dead before arriving at the stadium.

152. The authorities' explanations concerning the second phase of the events of 28 September are inconsistent with the Commission's findings in a number of respects. The duration of the attack on the demonstrators inside the stadium and in the complex undoubtedly lasted longer than the 15 to 20 minutes alleged, since the chronology of events indicates that the shots and acts of aggression of all kinds by the security forces, including the rapes and other acts of sexual violence perpetrated against 33 female victims, as established by the National Health Crisis Committee, lasted for over an hour and a half. There is also clear evidence, beginning with the testimony of some of the authorities' representatives, that men in military uniforms and red berets were indeed present in the stadium and surrounding area. Furthermore, contrary to what Lieutenant Toumba stated, more than eight red berets were present at the stadium. Many more were seen, including by witnesses from the security forces, who entered the stadium complex in several pickups. The victims all concur in their testimony that the red berets were not there to protect the leaders; far from it, since they launched violent attacks on both leaders and demonstrators. The explanation given by some of the authorities that the red berets seen in the stadium were in fact civilians disguised as military did not convince the Commission, as the description of their intervention in the stadium given by the two civilians interviewed in Commander Thégboro's quarters did not correspond in all particulars to the numerous accounts received from witnesses. In any event, if these pseudo-military opened fire in the stadium, the failure of the security forces on the esplanade to intervene to protect the people has yet to be explained.

2. Activation of the National Health Crisis Committee

153. The National Health Crisis Committee (CC) was established in the aftermath of the events of January and February 2007. It is subdivided into technical subcommittees, each with different responsibilities, such as violence management, and has a plan for the organization of relief operations (ORSEC). It works with other partners, which include UNICEF, WHO, Médecins sans frontières (MSF), ICRC and the Guinean Red Cross (CRG). Under the ORSEC plan, ICRC and CRG are responsible for the transport of victims. The health facilities involved in the provision of care are divided into four groups: the Donka and Ignace Deen national hospitals, the armed forces health service, the community medical centres and the public and private health centres. The Donka national hospital has a separate emergency plan, put in place by the Ministry of Health and ICRC, and which is activated whenever the hospital receives more than 25 patients with serious injuries in a single day.

154. According to the Ministry of Health and the National Health Crisis Committee, on the morning of 28 September 2009, after the arrival of the first casualties, Donka hospital activated its emergency plan while the Committee activated its ORSEC plan. Under the latter plan, the Committee is required to mobilize its resources, issue order for managing the crisis, supervise the treatment of victims, supply medicines, and collect and analyse statistical data.

155. All medical personnel were called upon to assist. The Committee gave the alert by requesting its partners to ensure the availability of medicines. CRG, supported by ICRC and the ambulances belonging to Donka and Ignace Deen hospitals and the community medical centres, were responsible for transporting the injured. CRG, for its part, sought assistance from the Chief of General Staff of the armed forces to gather up the wounded and dead.

156. The stock of supplies was checked, and the mechanism for mobilizing additional supplies activated. The Minister of Health was contacted and took the necessary steps to ensure that the central pharmacy remained open. The State allocated an amount of 1,453,676,000 Guinean francs to cover the cost of treating the injured, the most serious of whom were treated at Donka and the remainder at Ignace Deen. The Minister of Health also contacted the Senegalese authorities to request blood supplies. For his part, the President of the Republic instructed the Minister of Health to arrange for the evacuation of patients who could not be treated in Guinea. The authorities say that thus far they have provided care for all of the 28 September victims, whether as outpatients or as admissions.

157. According to the official report of the National Health Crisis Committee, there have been a total of 63 dead and 1,399 injured. In addition, 33 women were victims of sexual violence. According to the armed forces' health service, seven persons died from gunshot wounds.

3. Establishment of the National Commission of Inquiry

158. On 1 October, President Moussa Dadis Camara announced in a communiqué his intention of setting up a National Commission of Inquiry (CNE) to shed light on the events of 28 September. On 7 October, this Commission was established by ordinance.[23]

159. The CNE was to have consisted of 31 members appointed by the Government and of representatives of certain professional corporations and civil society. It was to have had legal powers, including judicial police powers and the authority to refer a case to the competent court once it deemed that an investigation had been completed (art. 3). A special 30-man mixed brigade of gendarmes and police, headed by a senior officer of the gendarmerie, was to have been placed directly and exclusively under its authority (art. 4). The CNE was never constituted, in part because some professional corporations and civil society organizations refused to take part or appoint representatives.

160. The ordinance was therefore amended on 30 October.[24] The main changes concern the elimination of all the legal powers formerly assigned to CNE, a

[23] Ordinance No. 053/CNDD/SGG/2009 establishing an independent National Commission of Inquiry.

[24] Ordinance No. 057/CNDD/SGG/2009 amending certain provisions of Ordinance No. 053/CNDD/SGG/2009 establishing an independent National Commission of Inquiry.

reduction in the number of members from 31 to 23 and their appointment by presidential decree rather than by independent organizations, and the inclusion of foreign representatives as members with consultative status. The most fundamental change concerns the granting of authority to place a person under administrative detention or house arrest where this is required to preserve evidence. The Minister of Justice, after informing the Commission that the CNE had officially assumed its functions on 3 November for three months, stated that the special mixed brigade of gendarmes and police, which he described as the armed component of the CNE, had the power to execute CNE orders, even those that were binding.

161. The people and civil society seem to lack confidence in the CNE, and the binding powers granted to the Commission and its armed component are more likely to intimidate witnesses than to encourage them to testify about the events of 28 September.

162. At the same time, the Government of Guinea, on 15 October 2009, commissioned the CW Group LLC to provide expert technical assistance in evaluating the events of 28 September 2009. A copy of the confidential report drawn up by the experts was given to the Commission by the Ministry of Foreign Affairs.

4. Legal proceedings

163. Following the events of 28 September and on instructions from the Minister of Justice, the Public Prosecutor attached to the Conakry Court of Appeal requested the Trial Court of Conakry 2 (the territorially competent jurisdiction) to initiate a judicial investigation against X for murders, rapes and violation of a prohibition against holding a demonstration. However, with the establishment on 7 October 2009 of the Independent National Commission of Inquiry, the regular judicial authorities of Guinea decided not to proceed with the case in deference to that Commission, which was "invested with all police and investigatory powers". In spite of the amendment of 30 October 2009, which rescinded the National Commission's investigatory power, the Public Prosecutor did not reinstitute the proceedings that had been suspended on the grounds that he was awaiting instructions from the Minister of Justice.

164. The Guinean judicial authorities informed the Commission that they had not received any complaint with respect to the events of 28 September 2009. The National Police and the National Gendarmerie made the same statement. A complaint against X, nevertheless, seems to have been lodged on 8 October 2009 for "murder, assassination, unlawful burial, rape, violation of decency, molestation, illegal detention, threats and acts of violence" with the Court of Major Jurisdiction of Kaloum, Conakry, by a lawyer on behalf of the Association of Victims of the Events of 28 September (VIPA). However, the deputy prosecutor who is said to have received the complaint apparently did not file it in accordance with procedure, and the complaint subsequently disappeared.[25] On Wednesday, 2 December 2009, the Commission met with the Prosecutor of the Republic of Guinea attached to the Trial Court of Kaloum, who stated that he had had no knowledge of the complaint.

165. In addition, the testimony gathered by the Commission from lawyers in Conakry and from certain Guinean judicial authorities indicates that no Guinean

[25] According to VIPA, the complaint was registered as file No. 261 on 8 October 2009 by the Deputy Prosecutor, who did not sign his name.

national jurisdiction would be competent to determine in a conclusive manner the events of 28 September 2009. Similarly, the commission of inquiry established for the events of 2006 and 2007 did not achieve any results, creating a climate of impunity and reinforcing the population's lack of confidence in the national legal system. Certain documented cases as well as statements given, including by the highest judicial authorities of Guinea, provide clear evidence of the impunity generally enjoyed by the red berets, whom the legal authorities claim to be unable to arrest and try when they commit crimes or offences. All this suggests that the Guinean legal authorities have neither the will nor the capacity to prosecute the perpetrators of the crimes committed on 28 September 2009.

5. Concealment of the facts

166. The treatment of the wounded and dead after the events demonstrates, contrary to the statements by the authorities, serious deficiencies, even behaviour, that, taken together with other acts, seems deliberately designed to conceal the evidence of what had occurred. Thus, in spite of the activation of the crisis plan, testimony gathered by the Commission shows that many of the wounded persons encountered difficulties in being transported to the hospitals and receiving care, that access to medicine was limited, that not all of the dead were taken to morgues, that some of the wounded who do not have money have still not received treatment and medicine, and that some health units were unable to treat the wounded owing to a lack of adequate supplies, since 28 September is a holiday. The official statistics do not account for all the wounded, including those treated in some private health-care units, or all the dead and disappeared. The information gathered by the Commission in any case indicates that the number of bodies that were brought to the hospitals exceeded the figure of 63 given by the authorities.

167. It has been established that most of the demonstrators who had been able to escape the killing were deprived by all the security forces present in the stadium not only of their money and other personal effects, but also of all equipment containing audio and video recordings or pictures, including those made by media professionals. In addition, in the stadium itself and then during the transportation by the various health services and in the hospitals themselves, some of the dead bodies, which would have made it possible to determine the exact number of the victims and the way in which they were killed, disappeared and still have not been found. Medical records were also removed, and diagnoses were concealed. As soon as the violence died down, the places where the physical evidence of the events of 28 September could be safeguarded were systematically placed under military control, and access to them by civilians limited or prohibited. A number of credible accounts by witnesses indicating mass graves in several of the places identified also support the view that the forces involved in the attack at the stadium sought to cover up their acts. A member of the law enforcement agencies stated in this regard that a truck belonging to the Gendarmerie had arrived at the Donka morgue at about 2 a.m. on 29 September and that red berets had loaded approximately 80 corpses on to three trucks, which were then escorted by Lieutenant Toumba's men riding in two pickups. The trucks were driven to two different places that were identified.

168. According to the stadium manager, repainting of the stadium began two days after the events in question. This was said to be part of work that had already been planned and initiated prior to the events in order to prepare the stadium for a soccer match on 11 October between Guinea and Burkina Faso. During its visit to the

stadium on 27 November, the Commission was also informed by the competent authorities that certain seats, including official box seats, had been completely replaced. The reasons given by the Guinean authorities for intervening in what constituted the scene of a crime, immediately after the events and at a time when the international community and the President himself had already called for the establishment of a commission of inquiry, and for thus destroying all traces of the violations committed can be explained, in the opinion of the Commission, only by a desire to prevent use of physical evidence which might contradict the thesis put forward by the authorities and enable the perpetrators to be identified.

III. Qualification of the violations and crimes

A. Violations of human rights

169. The events described above in paragraphs 53 to 168 constitute serious human rights violations under the conventions guaranteeing basic human rights that were signed and ratified by Guinea.

170. Several provisions of the **International Covenant on Civil and Political Rights** were violated. Guinea did not make use of its right of derogation from several of the Covenant's provisions under article 4. All the provisions of the Covenant are therefore applicable to the events in question.

171. Guinea massively violated the right to life of its citizens (art. 6 of the Covenant) when its security forces executed at least 67 civilians, to which number must be added the disappearance of at least 89 others who were inside or in the vicinity of the stadium on 28 September as well as in other districts of the city of Conakry.

172. The right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (art. 7 of the Covenant) was also violated in a massive manner. This right will be considered in greater depth in the section dealing with the Convention against Torture. The sexual slavery to which a number of women were subjected constitutes, inter alia, a violation of the prohibition against holding anyone in slavery or servitude (art. 8 of the Covenant). The arbitrary arrests and detention that were documented constitute for their part violations of article 9 of the Covenant.

173. The Commission also considered the prohibition by the authorities against the holding of a demonstration on 28 September in relation to article 21 of the Covenant, which enshrines the right of peaceful assembly. The Covenant specifically provides that "no restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others". The Minister of Territorial Administration and Political Affairs issued through the media, on behalf of the Government, a communiqué requiring the postponement of all demonstrations throughout the national territory on the day of 28 September on the grounds that it was necessary to

respect the date of the anniversary of independence.[26] These grounds do not seem to correspond to any of the reasons that justify the prohibition of a demonstration under article 21 of the Covenant.

174. The Government had also prohibited the use of the stadium on the grounds of maintaining it for a soccer match which was to take place in October. Even if this argument merely served as a pretext to prevent the demonstration by opponents, the political parties knew that they did not have the right to hold the demonstration in the stadium without the authorization of the competent authority. All things considered, it therefore seems difficult to draw conclusions on a violation of article 21 of the Covenant in view of the fact that while, on the one hand, the Government did not follow the legal procedure for prohibiting the demonstration, on the other hand, the demonstrators insisted on holding it in the stadium despite the prohibition against using the site.

175. Article 12 of the **International Covenant on Economic, Social and Cultural Rights**, which enshrines the right to health,[27] was also violated repeatedly by the Guinean State. On the one hand, the Government stated on the very day that the events took place that treatment for the wounded was free of charge, which enabled hundreds of persons to receive free treatment at Donka Hospital. On the other hand, the attempts by the military to block the Red Cross ambulances transporting wounded persons and the pillaging of the Donka Hospital pharmacy on the evening of 28 September constitute serious violations of the right to health of the victims. The premature and unjustified interruption of the care provided to numerous wounded persons, who, for this reason, have been unable to recover completely, also constitutes a violation of their right to health. The threats by the military and the Minister of Health against the wounded and the personnel caring for them at Donka Hospital as well as the placing of the hospitals under military control for several days forced an undetermined but large number of the wounded to leave the hospital or not to seek care for fear of retaliation. This constitutes an additional violation of their rights. The sexual violence committed against women also constitutes a serious violation of their right to physical, mental, reproductive and sexual health.

176. The Commission reviewed in depth the allegations of discrimination on the basis of the ethnic origin of certain victims. Such acts would constitute violations of the International Convention on the Elimination of All Forms of Racial Discrimination. The demonstrators at the stadium came from all of the country's ethnic groups, as did the political leaders who were present. The soldiers opened fire on the crowd without warning and indiscriminately. However, the Commission received a large number of reports that the aggressors were specifically targeting one ethnic group, the Peul, to punish them for "seeking power". At the same time, other victims reported that their aggressors told them that they had to be punished "because they were supporters of Cellou Dalein [Diallo]". The CNDD junta seems to believe that UFDG, Mr. Diallo's party, is the greatest political threat to its movement. This party's base is in Foutah Djallon, a predominately Peul region. In view of the number of reports on the matter and the similarities between them, it may be postulated that, even in the widespread attack of 28 September, a certain group was targeted more than others. Nevertheless, the Commission cannot confirm

[26] Interview with Minister Kolié on 30 November 2009.

[27] See the Committee on Economic, Social and Cultural Rights, General Comment No. 14 (2000) on the right to the highest attainable standard of health (E/C.12/2000/4).

whether this discrimination was based on the victims' ethnicity — which would be a violation of the Convention — or their political affiliation, which, without in any way minimizing its seriousness, would not fall under the purview of the Convention. A more detailed investigation will be needed to clarify this important aspect of the events of 28 September.

177. Grave violations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment were committed during the events of 28 September and the days following. Hundreds of civilians at the stadium were stabbed with hand weapons and severely beaten and at least 109 women were subjected to sexual violence. Many of the acts described in chapter II above undoubtedly exhibited the constituent elements of torture as defined in article 1 of the Convention. These acts inflicted "severe pain or suffering" in order to punish the victims for an act which they had committed (participation in a demonstration prohibited by the Government) and to intimidate them, particularly to deter them from demonstrating against the authorities in the future. The persons responsible for these acts were soldiers, gendarmes, policemen and militiamen. The latter clearly acted "at the instigation of [a public official] or with the consent or acquiescence [of a public official]" since they were operating in conjunction with the security forces which were engaged in repression. Some of these acts, such as stripping women naked in public or certain less severe types of aggression, may be categorized as cruel, inhuman or degrading treatment.

178. The acts of sexual violence described at the end of the preceding paragraph are also violations of the Convention on the Elimination of All Forms of Discrimination against Women, since they were clearly directed against women as such.[28]

179. Guinea has also ratified an important regional instrument, the African Charter on Human and People's Rights. Most of the violations of the Charter are also violations of the provisions of the international conventions described above. Mention may be made of the right to life and physical integrity (art. 4), the prohibition of physical or mental torture (art. 5), the right to liberty and security of the person (art. 6) and the right to health (art. 16). The right to property (art. 14), which is not explicitly recognized in the United Nations instruments referenced above, was also violated, particularly inside the stadium and near the exit where the security forces systematically took away the demonstrators' money and/or mobile telephones.

B. Violations of international criminal law

180. Although the question as to whether or not crimes were committed can be finally and conclusively resolved only by a court with the requisite jurisdictional competence, the Commission believes that there is a set of characteristics which demonstrate that the acts perpetrated on 28 September 2009 were sufficiently serious to justify their qualification as crimes against humanity. In this section, the incidents will be analysed in the light of the constituent elements of crimes against humanity and on the basis of the specific elements relating to crimes.

[28] See Committee on the Elimination of Discrimination against Women, general recommendation No. 19 (1992) concerning violence against women.

1. Constituent elements of crimes against humanity

181. For acts to be considered as constituting crimes against humanity, they have to have been committed within the context of a widespread or systematic attack knowingly launched against a civilian population.

(a) The attack

182. In relation to crimes against humanity, an attack is "a course of conduct involving the commission of acts of violence".[29] The term "attack" also encompasses "mistreatment of the civilian population".[30]

183. On the basis of the information collected by the Commission, by their nature, scope and characteristics, the acts of violence recorded were all part of a pattern of conduct which indicates that there was coordination between the red berets, the Thégboro gendarmes and the militiamen in the commission of these acts.

184. All the acts were committed within a well-defined area where most of the presumed perpetrators were very near each other, each of them having shown a level of involvement which could have helped and supported the other perpetrators. The largest number of crimes committed were concentrated over a period of less than two hours and the gravity of the consequences for the victims of these acts, along with the attempt to conceal these consequences, are clear indications of a coordinated and organized attack.

(b) Its widespread or systematic nature

185. In the jurisprudence of the International Criminal Tribunal for the former Yugoslavia, the characteristics of a widespread or systematic attack have been identified as including "the consequences of the attack upon the targeted population, the number of victims, the nature of the acts, the possible participation of officials or authorities or any identifiable patterns of crimes".[31]

186. The demonstrators who were in the stadium on 28 September were struck with wooden clubs and rifle butts, stabbed, and killed by bullets fired at close range, often in the back, from automatic weapons. Women were subjected to collective rape, often involving the use of objects, in public places, and all these acts were committed over a period of less than two hours, mainly in one place, in full view and with the full knowledge of all those who were present.

187. The consequences of the attack perpetrated against civilians peacefully demonstrating at the stadium were deaths, serious injuries, including injuries caused by acts of sexual violence which in several cases caused the death of the victims, and forced disappearances of persons whose fate remains unknown to this day.

188. The number of victims of killings, imprisonment, torture, rape and other forms of sexual violence, including sexual slavery, persecution, forced disappearance and other inhuman acts runs into the hundreds. The nature of the acts reveals a level of coordination indicating an intention to inflict the greatest possible suffering in the

[29] *Tadic* decision on the form of the indictment, para. 9; *Kunarac* judgement, para. 415; *Krnojelac* judgement, para. 54; *Kunarac* appeal judgement, para. 89; *Naletilic* judgement, para. 233.

[30] *Lukic* judgement, para. 873; *Kunarac* appeal judgement, para. 86.

[31] *Kunarac* appeal judgement, para. 95; *Stakic* judgement, para. 625.

shortest amount of time, all of which was facilitated by the blocking of the exits so as to trap the targeted population and maximize the number of victims.

• Widespread

189. The term "widespread" refers to the "large-scale nature of the attack which is primarily reflected in the number of victims".[32] The events of 28 September and the following days resulted in hundreds of victims. The estimate of the number of victims confirmed by the Commission is at least 67 killed, 89 disappeared and 109 women raped or subjected to other types of sexual violence.

190. The Commission considers sexual violence and forced disappearances, in particular, to be two particularly significant characteristics of the attack which demonstrate its widespread nature. The large scale on which the multiple and complex acts of sexual violence were committed in a manner which was concentrated in time and space — mainly within and around the stadium, over a period of less than two hours — and the means used in the commission of these acts are indications of a widespread attack against the female civilian population within the stadium.

• Systematic

191. In the case-law of the ad hoc tribunals, the term "systematic" refers to "the organized nature of the acts and the improbability of their random occurrence".[33] The term "systematic" has also been defined as "the non-accidental repetition of similar criminal conduct on a regular basis".[34]

192. The events of 28 September 2009 strongly suggest coordinated action by the red berets, the Thégboro gendarmes, the militia and, to some extent, the gendarmerie and the police. The elements that strongly suggest this organization and coordination relate mainly to the means and methods used, as described in this report, particularly in the section on the description of the attack.

193. The timing of these widespread acts, most of which were committed over a period of several hours on the same day, and the viciousness of the attack, which was launched simultaneously from several sides of the stadium in a clear effort to injure as many civilians as possible, are proof of the systematic nature of the attack.

194. The scale of the atrocities committed in a limited period of time and in a limited area also indicates a degree of coordination and organization that suggests a systematic plan designed to cause serious harm to the civilian demonstrators, particularly the women.[35] Based on these facts, the Commission also considers that

[32] *Lukic* judgement, para. 875; *Kunarac* appeal judgement, para. 94; *Blaskic* judgement, para. 101.

[33] Appeal decision in the Blaškić case, para. 101; appeal decision in the Kunarac case, para. 94; judgement in the Simić case, para. 43; judgement in the Naletilić case, para. 236; judgement in the Stacić case, para. 625; judgement in the Tadić case, para. 648; judgement in the Krajišnic case, para. 706 (b).

[34] Judgement in the Lukić case, para. 875; appeal decision in the Blaškić case, para. 101; appeal decision in the Kunarac case, para. 94.

[35] The Rome Statute includes a criterion for jurisdiction over crimes against humanity: the attack must have been committed pursuant to or in furtherance of a State or organizational policy to commit such attack. Based on the results of its investigation, the Commission concluded that the facts considered in order to demonstrate the systematic and widespread nature of the attack also support the conclusion that the attack should be deemed to have been committed pursuant to or in furtherance of a State or organizational policy to commit such attack.

the attack was committed in implementation or in pursuit of a strategy that sought to suppress the opposition political movements by committing the crimes described in this report.

(c) The civilian population

195. In order for acts to be qualified as crimes against humanity, "the attack must be directed against any civilian population".[36] The attack must be directed against "a civilian 'population', rather than against a limited and randomly selected number of individuals".[37] The factors that may help determine whether an attack was directed against the civilian population include the "means and method used", the "status of the victims", the number of the victims, the "discriminatory nature of the attack" and the "nature of the crimes committed in its course".[38]

196. According to the information gathered by the Commission, the tens of thousands of civilian protesters were unarmed and in civilian clothing. There was simply no other target for the attack in the stadium except the civilian population. The widespread nature of the attacks on the unarmed, non-violent people in the stadium shows that this population was the primary target of the attack. The means and methods used and the nature of the attacks are described in detail above and the victims numbered in the hundreds.

(d) Prior knowledge of the attack

197. Coordination among the forces of law and order present in the stadium, as described above, indicates that the groups helped and supported each other, in a physical situation in which everyone on the spot would have been aware of the way the attack was carried out. Although each red beret or gendarme may not have been specifically aware of each or every action of the other presumed perpetrators, the attack took place within a defined period and physical space, such that it would have been impossible in practice for any of the groups of military forces, gendarmes, police and militiamen presumably implicated, taken individually, to claim they had no knowledge of the attack. Anyone in the stadium would have been fully aware of the attack.

2. Conclusion with regard to crimes against humanity

198. The red berets and gendarmes surrounded the stadium, blocked the exits, stormed through the main gates, fired tear gas and set about killing or wounding the demonstrators or subjecting them to sexual assault. In under two hours, hundreds of civilians had died or been seriously wounded, stripped in public and subjected to widespread sexual abuse, being unable to flee as the exits from the stadium had been blocked. The authorities then began an organized attempt to cover up the crimes and, as a result, at least 89 persons have been reported missing, some are suffering from permanent injuries, while others will be afflicted with long-term physical and mental suffering. Independently of the legality of the demonstration,

[36] Judgement in the Lukić case, para. 874, quoting from the appeal decision in the Kunarac case, para. 85.

[37] Judgement in the Lukić case, para. 874, quoting from the appeal decision in the Kunarac case, para. 90.

[38] Judgement in the Lukić case, para. 874, quoting from the appeal decision in the Kunarac case, para. 91.

there can be no legal justification for the methods and means used and for the gravity and scope of the acts of violence committed against civilians by the Guinean security forces on that day. These acts constitute a general and systematic attack against the civilian population in the implementation or pursuit of a strategy aimed at quelling, through this attack, political opposition movements and especially targeting women, who, according to the aggressors, should not have been there.

3. Specific crimes

199. Based on information gathered by the Commission, it is clear that elements of several specific crimes are to be found in the events that occurred in the stadium on 28 September. The results of the inquiry suggest that the following crimes against humanity were committed: murder,[39] imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law,[40] torture,[41] rape,[42] sexual slavery,[43] sexual violence,[44] persecution[45] and enforced disappearance of persons[46] and other inhumane acts.[47]

200. The Commission considers that the red berets, the members of the National Gendarmerie and the units under Major Thégboro, the police and the militia are presumed to be individually responsible from a criminal standpoint, having had knowledge of the general and systematic attack against the civilian population, for the following crimes against humanity:

- Murder, on the basis of the events described in paragraphs 74 to 85 of this report;
- Imprisonment and other serious infringements of physical liberty, on the basis of the events described in paragraphs 126 to 131 of this report;
- Torture and cruel, inhuman or degrading treatment, in the stadium and the detention centres, on the basis of the events described in paragraphs 118 to 125 of this report;
- Rape, sexual slavery and sexual violence, on the basis of the events described in paragraphs 93 to 117 of this report;
- Forced disappearance, on the basis of the events described in paragraphs 86 to 92 of the report;
- Other inhumane acts, on the basis of the events described throughout the report;
- The crime of persecution based on considerations of gender, as well as political and/or ethnic considerations, on the basis of the events described throughout the report and violations of fundamental rights committed through the acts listed herein.

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[39] Rome Statute, article 7 (1) (a).
[40] Ibid., art. 7 (1) (e).
[41] Ibid., art. 7 (1) (f).
[42] Ibid., art. 7 (1) (g) (1).
[43] Ibid., art. 7 (1) (g) (2).
[44] Ibid., art. 7 (1) (g) (6).
[45] Ibid., art. 7 (1) (h).
[46] Ibid., art. 7 (1) (i).
[47] Ibid., art. 7 (1) (k).

IV. Responsibilities

A. Responsibilities of the Guinean State for violations of human rights

1. Responsibilities of the security forces

201. The Guinean State is responsible for violations committed by soldiers, gendarmes and police officers, as well as for the violations committed by militias who cooperated with the security forces. The role of each security force that participated in the violations is briefly described below, while the coordination between the forces is examined in the section on violations of international criminal law (paras. 180-197 above).

202. Members of the commando regiment, known as the "red berets", committed the bulk of the murders, acts of sexual violence and other crimes. It is when they arrived that the attack against the population was launched, and this force seemed to be the one leading the operation, in coordination with the other forces mentioned below.

203. The Special Services responsible for combating drug trafficking and organized crime, generally known as "Thégboro's gendarmes" (from the name of the Minister in charge of these Services), also committed murders, sexual violence and torture using knives against several civilians, in collaboration and coordination with the red berets.

204. The National Gendarmerie, known as the "green berets", played a role in the violations, as some gendarmes took an active part in suppressing the demonstrators. The Commission also took testimony to the effect that some green berets helped demonstrators to get out of the stadium and even prevented some acts of rape and executions.

205. The National Police, particularly the CMIS, were also identified as having committed violations on 28 September. During the morning, in the stadium car park, police officers were clearly responsible for the murder of a civilian. In the attack at the stadium, they played a secondary yet nevertheless significant role in acts of sexual violence, torture of demonstrators and above all theft of their cellphones and money as they left the stadium. However, as in the case of the green berets, the Commission has been informed that some police officers helped demonstrators leave the stadium and even prevented acts of rape and executions.

206. The Commission was able to confirm the participation of militias in the violations of which the forces of law and order are accused, given the many demonstrators who witnessed the presence of civilians armed with knives among the attackers at the stadium. The Commission has been unable, however, to confirm the identity or nationality of the militiamen. Some witnesses allege that they are former Liberian rebels from the United Liberation Movement of Liberia for Democracy (ULIMO). Others claim they are young Guineans, most of them from the interior, who had been recruited by CNDD. It is also possible that both versions are correct, but the Commission prefers not to draw conclusions on that point, which needs to be clarified by a more detailed investigation.

2. Responsibilities and duties of the Guinean State

207. The serious violations of human rights described in chapter III and committed by the security forces identified above entail responsibilities and duties on the part of the Guinean State towards the victims of those violations. These obligations flow from the conventions referred to in paragraphs 169 to 179 above and from customary international law.

208. The primary responsibility of the State is to protect the population from serious violations of human rights, an obligation that arises from a number of international instruments ratified by Guinea and from customary international law. The Guinean security forces have shown that they were incapable of protecting the population.

209. A second responsibility of the State is to conduct meaningful investigations without delay and to bring to justice those responsible for the grave violations perpetrated on 28 September. Such a right is guaranteed by the International Covenant on Civil and Political Rights (art. 2) and by the Convention against Torture (art. 5). This obligation is also set forth in several non-binding international instruments ("soft law instruments") and is nowadays generally considered to be a principle of customary international law. The Government of Guinea has fallen far short of discharging its duty in that regard.

210. A third obligation relates to the "inalienable right to know the truth" regarding the grave violations of 28 September. The content of the right to truth remains controversial, but nevertheless the right of families to learn the fate of their loved ones reported as missing seems to be recognized by customary international law. The Government of Guinea is obligated to shed light on the fate of the many people who disappeared on 28 September, especially since its own security forces arranged for concealment of the bodies of the victims.

211. A fourth and final obligation of the Guinean Government flowing from the events of 28 September concerns "adequate, effective and prompt reparation" for the harm suffered by the victims. The most appropriate forms of reparation in specific cases will be examined in the recommendations.

B. Individual responsibility for violations of international criminal law

1. General principles

212. The final determination of individual criminal responsibility lies exclusively with a court of law. However, the Commission is obliged by its mandate to establish responsibility and to identify, where it can, the perpetrators of the crimes committed. In this section, the Commission assesses the individual criminal responsibility of the presumed perpetrators listed in chapter II (paras. 53 to 168 above). The information in this report could guide any possible future criminal investigation of the presumed perpetrators of the human rights violations which took place at the stadium on 28 September 2009 and the days that followed.

213. There are two forms of responsibility through which an individual can be held criminally responsible for violations of international criminal law: direct responsibility or, alternatively, indirect responsibility or the responsibility of a military leader or hierarchical superior. Direct responsibility exists where an

individual (jointly with another or through another person) orders, solicits, favours, helps, encourages or is present during the commission of a crime; or provides the means for its commission; or intentionally contributes to the commission of a crime by a group of individuals acting with a common criminal purpose. Such an intentional contribution must be made with the aim of furthering the criminal activity or criminal purpose of the group where such activity or purpose involves the commission of an international crime, or if the intentional contribution is made in the knowledge of the intention of the group to commit the crime.

214. Indirect, or command, responsibility exists where a superior or commander has effective control over the individuals or forces under his command or authority; when that individual knew, or "should have known" that the forces under his control "were committing" or "were about to commit" such crimes, and where the superior or commander "failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution".

215. The Commission concludes that there are reasonable grounds to suspect individual criminal responsibility in connection with the events of 28 September 2009 and the days that followed on the part of:

(a) The President, Captain Moussa Dadis Camara;

(b) Lieutenant Aboubacar Chérif Diakité (known as "Toumba"), the President's aide-de-camp and the Commander of his personal bodyguards;

(c) Commander Moussa Thégboro Camara, Minister in charge of the Special Services responsible for combating drug trafficking and organized crime.

2. Captain Moussa Dadis Camara, President of Guinea

216. The Commission finds that there is prima facie evidence that President Moussa Dadis Camara incurred individual criminal liability and command responsibility for the events that occurred during the attack and related events in their immediate aftermath.

217. The units that were mainly responsible for the violations committed at the stadium were the elite forces of CNDD and the forces most loyal to President Camara. The red berets, a unit that already existed under the former regime, was reorganized and placed under the command of men who are very close to the President, namely, Captain Claude Pivi and Lieutenant Toumba (who subsequently tried to assassinate the President). The Special Services unit to combat drug trafficking and organized crime was established by CNDD immediately after it had seized power; it was placed under the command of another top-ranking member of CNDD, Commander Moussa Thégboro Camara. Unlike the regular army, which President Camara has described as ill-disciplined, the headquarters of these units are at the Alpha Yaya Diallo military camp, where the office of the President is located.

218. Commander Thégboro informed the Commission that he was with the President on the night of 27 to 28 September, when Sidya Touré was called. Although the President told the Commission that Major Thégboro "did what he thought fit" ("*prend ses dispositions*"), the latter explained to the Commission that "one has to follow the chain of command" and that he reported only to the Prime Minister and the President; indeed, he has a hotline to the President. Therefore,

Commander Thégboro could not have gone to the stadium or decided on any action in relation to the events without having received orders from the President or at least been given authority to act on his behalf.

219. Lieutenant Toumba also stated that he reported directly to the President and that, on the day of the events, the President had given him direct orders to proceed to the stadium in order to provide protection for the political leaders and to send any soldiers of the regular army he might find there back to the barracks. Lieutenant Toumba and Commander Thégboro informed the Commission that, when violence broke out at the stadium, their mission was to protect the political leaders. They both stated that they carried out the orders faithfully, as evidenced by the fact that the political leaders they personally evacuated from the stadium were not killed. However, the political leaders were not immediately taken to the hospital, even though, clearly, some of them were seriously injured. Commander Thégboro and Lieutenant Toumba had them taken to gendarmerie headquarters, from where the Chief of Staff of the gendarmerie, Commander Baldé, called the President to tell him that they had to be taken to the hospital. The President reportedly acceded to that request.

220. The Commission received testimony from many witnesses suggesting that those who perpetrated the violent acts at the stadium were carrying out orders. One victim was reportedly asked by a red beret: "Why did you come to the stadium? Now there's nothing I can do to help you". Another victim, who begged for her life when a soldier found her hiding place around 3 p.m., reported the soldier as replying "You're a bastard. Dadis told us to kill all of you".

221. When Commander Thégboro and Lieutenant Toumba went to the stadium, their actions and those of their subordinates could be directly attributed to the President. Commander Thégboro and his men, who were in the vicinity of the stadium, deployed to the stadium. Lieutenant Toumba and his men came directly from the Alpha Yaya Diallo camp and camp Kundara, to encircle the stadium. Although they took separate paths to the stadium, they had a similar mission and their chain of command led back to the President — Lieutenant Toumba through Minister Pivi (although the former told the Commission that he reported directly to the President) and Commander Thégboro through the Prime Minister.

222. The Commission finds prima facie evidence that there was coordination among all the armed groups that were involved in the stadium attack, including militias. A policeman reported seeing "Soguitrans" buses filled with men in plain clothes, escorted by red berets in two pickups, leaving the Alpha Yaya Diallo camp. Several witnesses reported seeing such buses arriving at the stadium and dropping men in plain clothes wielding bladed weapons, who then participated directly in the acts of violence in coordination with groups of red berets and gendarmes under the command of Thégboro. It should be noted that the headquarters of President Moussa Dadis Camara, Commander Thégboro, Captain Pivi and Lieutenant Toumba are all located at the Alpha Yaya Diallo camp, within a radius of a few hundred meters of each other.

223. The day after the stadium events, the President publicly stated: "The most shocking thing is that I tried to reason with the political leaders, telling them that there had been similar cases in the past and that I did not want the same thing to happen again." The President repeatedly blamed the political leaders for the events, claiming that they had organized a "subversive demonstration" with malice

aforethought or an "insurrection". He blamed the political leaders for "sending other people's children to be slaughtered". The President told the Commission that the political leaders had already seen what the army's reaction was like in 2007 and that, consequently, "they knew that the army was going to react". His words suggested he was sure that such demonstrations led necessarily and inevitably to the type of violence that occurred on 28 September and the related events in their immediate aftermath. They also signalled his intention to respond to the 2009 demonstrations in a manner similar to the army's response in 2007.

224. The Commission finds that there is a prima facie case that President Camara incurred direct criminal responsibility in the perpetration of the crimes documented in this report.

225. As commander-in-chief of the armed forces, President Camara has ultimate command authority over all the security forces involved in the attack and in the related events in their immediate aftermath. Guinea is currently under a military Government that seized power through a coup d'état. The Government's structure is patterned after a military chain of command, with the President as the supreme commander. Upon being asked by the Commission about the chain of command, Lieutenant Toumba replied that "the military institution is one where one obeys commands and orders and it cannot be compared to a civilian institution".

226. After the events that occurred at the stadium and in the immediate aftermath, President Moussa Dadis Camara did not do anything to stop the perpetration of crimes or to punish the perpetrators. On the contrary, when senior officers tried to arrest Lieutenant Toumba for his role in the events of 28 September, the President, according to Captain Pivi, prevented them from doing so. On 2 October 2009, when the alleged involvement of Lieutenant Toumba in the attacks was already public knowledge, the President and his Lieutenant appeared side by side at an official ceremony to mark Guinea's independence day, which received wide media coverage. Shortly after the events, the President complained about his undisciplined army. However, he also demonstrated considerable control over the military, since the regular army obeyed his orders, transmitted through the chief of staff of the armed forces, to remain in their barracks throughout the day, despite the seriousness of the events taking place in the city. Furthermore, the President's 2 November 2009 decision to promote all senior non-commissioned officers and non-commissioned officers of the army — including those who were members of the branches of the army that took part in the 28 September events — to a higher rank with effect from 23 December, would appear to indicate that their acts were perpetrated with the President's blessing.

227. The Commission has gathered considerable information on the well-organized and coordinated efforts made to cover up the crimes committed; the security forces that perpetrated the crimes were behind those efforts. The President did nothing to prevent or stop those efforts.

228. The Commission therefore finds that there is sufficient evidence showing that President Moussa Dadis Camara incurred military command responsibility for the crimes described in this report.

3. Lieutenant Aboubacar Chérif Diakité (alias Toumba)

229. The Commission finds that there is prima facie evidence that Lieutenant Aboubacar Chérif Diakité (alias Toumba) incurred individual criminal liability and command liability for the events of 28 September and related events in their immediate aftermath.

230. Lieutenant Toumba is the commander of the President's personal security detail and his aide-de-camp. He told the Commission that he had received a direct order from the President to go to the stadium to protect the political leaders, and if there were soldiers there, despite orders to the contrary, he should order them back to the camp. He stated that he went to the stadium with only eight men and that he saved political leaders from their attackers, although he was unable to identify the latter. He did not hear any gunfire at the stadium, nor did he see any corpses and witness any sexual violence. He declared that "no one would have thought of touching a woman".

231. However, the Commission heard hundreds of eyewitness accounts indicating that Lieutenant Toumba was at the stadium and that the bulk of the heinous violations were committed by the red berets in the presence and under the command of Lieutenant Toumba. Several witnesses noted that the violence at the stadium started when Lieutenant Toumba arrived there. The Commission also confirmed that the latter personally participated in some of the attacks, including those targeting selected political leaders, and fired point blank on demonstrators. One witness reported Lieutenant Toumba as saying "I want no survivors. Kill them all. They think we have a democracy here", as he fired on demonstrators in the stadium. Another witness also described how, when Lieutenant Toumba made a hand signal, his men began to fire and that, after a communication (by telephone or radio) he ordered his subordinates to stop firing. Lieutenant Toumba's aide-de-camp, his second in command, Second Lieutenant Marcel Koivogui, was observed by many eyewitnesses firing into the crowd, while Lieutenant Toumba kept his men in check in the stadium. It was also reported that, with Lieutenant Toumba standing by, the President's driver, Sankara Kaba, fired on Cellou Dalein Diallo and wounded his bodyguard, who had stepped in to protect him.

232. The Commission finds that there is sufficient evidence showing that Lieutenant Toumba incurred direct criminal responsibility for the crimes committed during the events of 28 September and related events in their immediate aftermath.

233. The Commission ascertained that Lieutenant Toumba entered the stadium at the same time as the men under his command. The organization and coordination of the security forces during the attack, described in paragraphs 180 to 200, show the effective control that Lieutenant Toumba had over the members of the presidential guard. Indeed, it was Lieutenant Toumba himself who told the Commission that "the military institution is one where one obeys commands and orders and it cannot be compared to a civilian institution", thus proudly confirming the control he exercised over his men. It should be noted that he would not allow the Commission to interview some of his subordinates.

234. Lieutenant Toumba's presence at the stadium and elsewhere following the events that occurred in the stadium showed that he knew or had reason to know that his subordinates were responsible for committing the crimes described in the report.

Not only did Lieutenant Toumba do nothing to prevent the perpetration of those crimes, but he even participated directly in their execution.

235. The Commission therefore finds from the foregoing that there is prima facie evidence that, in addition to individual criminal liability and personal liability, Lieutenant Toumba also incurred subsidiary liability as a military commander.

4. Commander Moussa Thégboro Camara

236. The Commission is of the view that there are sufficient grounds to assume the direct criminal liability of Commander Moussa Thégboro Camara, and even command responsibility, for the acts committed in connection with the events of 28 September 2009 and subsequent days.

237. The Commission has evidence that Commander Thégboro and the men under his command were directly and personally involved in the stadium attack, and, thus, that his unit played a central role in the organized and coordinated attack on the civilian demonstrators. Commander and Minister Thégboro was at the stadium early in the morning and during the entire time that the events were taking place he was the highest ranking official on the scene. According to an account by one police officer, he was the one who, just before exiting the stadium, gave the order to CMIS to clear the public thoroughfare of the barricades set up by the demonstrators. The fact that he personally addressed the demonstrators and tried to prevent the political leaders from entering the stadium would seem to indicate that, in the end, he was in charge of the operation. He was with the President when the President called Siday Touré the night before the events.

238. Commander Thégboro is assumed to be responsible for the murder of two demonstrators by his gendarmes on the stadium terrace in the morning. During and after the stadium attack, his gendarmes were responsible for murders, sexual violence, acts of torture and arbitrary arrests and detention as well as forced disappearances. The men under his command were directly implicated in hiding bodies in hospitals and morgues. On the basis of all the evidence, the Commission concludes that Commander Thégboro was directly implicated because of his own actions and those of his subordinates.

239. Commander Thégboro told the Commission that he had entered the stadium with only two of his subordinates — an assistant by the name of Blaise and another individual — and that he had stayed only 10 minutes, just long enough to complete his assignment to provide assistance to wounded political leaders. He said that during that time, he had not witnessed any killing, sexual violence or injury, except for the injuries to political leaders. As for the rape incidents, Commander Thégboro said: "In such circumstances, how could such a thing happen? That takes preparation. You would have to be crazy to rape a woman during a demonstration! That's the sort of thing you have to work out in your head beforehand. It can't be thought up in 10 minutes". Knowing that the political leaders Commander Thégboro was accompanying observed women being raped, the Commission fails to understand how the Commander could not have seen rapes occurring in the stadium.

240. The Commission is therefore of the view that there may be sufficient reason to conclude that Commander Thégboro bears direct criminal responsibility for the commission of the crimes described in this report.

241. Commander Thégboro is one of the strong men of the junta. He is in command of and has effective control over his subordinates. At no time did he suggest that his men could have acted outside his command; he simply said that his men were not present at the stadium. This statement was confirmed by two of his subordinates although it runs counter to most of the testimony the Commission has received. Accordingly, Major Thégboro knew, or at any rate should have known, that his subordinates were committing or had committed these acts and he did not prevent them from doing so and did not conduct an investigation into the facts.

242. The Commission is therefore of the view that there may also be sufficient reason to presume that the military chief who was above Commander Thégboro in rank bears responsibility for the crimes described in this report.

5. Other responsible persons

243. The Commission believes that other people may be held criminally liable for their involvement in the events of 28 September and the days that followed. They include, among others, Captain Claude Pivi (alias Coplan), Minister with responsibility for the Presidential Guard, and Colonel Abdulaye Chérif Diaby, Minister of Health. Their role and the degree to which they were involved in the events of 28 September and the days that followed should be examined in the context of a judicial investigation.

244. Captain Claude Pivi (alias Coplan) informed the Commission that "the President of the Republic is the commander of the regiment [commando], having taken over the command following the dismissal of the previous commander. After the President, I am the one who personally coordinates the command at the level of the Presidency". On the morning of 28 September, he remained in Alpha Yaya Diallo camp "because security in the stadium was in the hands of the police and the gendarmes. The President did not give me any orders and therefore I did not go there. Later, we wondered which group could possibly have done that". According to the official hierarchy and in accordance with what was reported to the Commission, Captain Pivi is above Lieutenant Toumba in rank and the Lieutenant's subordinates are part of the Presidential Guard, which is under Pivi's command. However, Lieutenant Toumba appeared very irritated when the Commission asked him whether he was subordinate to Captain Pivi and he reminded the Commission that he took his orders directly from the President. Captain Pivi denied outright that a single red beret had left the camp on the day of the events, stating: "No, as far as I know, no one left the camp that day. All my men, including those of Lieutenant Toumba, stayed in the camp the entire day. If they did go to the stadium, they acted without orders and without my authorization. I did not call a meeting with my subordinates on 28 September until 8 p.m. and I do not know what Lieutenant Toumba did during the day".

245. However, the Commission was told that Captain Pivi and his men were present in the neighbourhood of the stadium as early as 11 a.m. According to other reports, Captain Pivi ordered his men to open fire. He was also reported to have been seen on the terrace with some red berets, assaulting the demonstrators. Some law enforcement officers testified that, when they went to report on the situation to the President on 28 September, around noon and in the middle of the afternoon, they did not see Captain Pivi in Alpha Yaya Diallo camp. One policeman said that he saw Captain Pivi and his men in their pickup trucks, together with members of the

militia in civilian dress, passing through his sector of Ratoma, coming from the city at around 5 p.m. on 28 September. Some witnesses also said that they had seen Captain Pivi and his men fire on people in the street in the Hamdallaye area in the afternoon. Captain Pivi is also reported to have stopped a vehicle belonging to the Guinean Red Cross in order to prevent the emergency workers from taking the wounded to Donka Hspital.

246. According to other sources, Captain Pivi was directly involved in the search for civilian demonstrators around the stadium in the late afternoon of 28 September. These various witness accounts strongly suggest that he participated directly, and that his subordinates were involved, in the events of 28 September.

247. Following the events of 28 September, Captain Pivi tried to arrest Lieutenant Toumba for his supposed role in the attack on the stadium, but the President prevented him from doing so: "I told the President that if everyone was talking about someone who was involved in the events, that person should be arrested, whether it concerned the stadium or not. Lieutenant Toumba was answerable to me since he is part of the President's security. I therefore said that I must summon Toumba to ask him whether or not he had been at the stadium, but I was given to understand that that was not the case".

248. Captain Pivi's statement that no one left Alpha Yaya Diallo camp on 28 September is, in itself, hard to believe in view of the information in the Commission's possession. It also casts doubt on the Captain's statements regarding his activities during the day of 28 September and regarding the extent of his involvement and participation in the events and that of his subordinates.

249. It is worth referring, in this report, to Colonel Abdulaye Chérif Diaby regarding possible direct criminal responsibility and even command responsibility, in view of the facts described in paragraphs 136 to 146 and 166 to 168 above. The Commission notes that there is sufficient reason to believe that the wounded were denied medical treatment and access to care and that, in addition, medical records were tampered with in order to conceal the type of wound and the cause of death. Furthermore, it is clear that the deliberate and coordinated failure to follow established procedures for the conservation of the bodies, as a consequence of the takeover of the morgues by the law enforcement officers, helped to conceal the evidence of the event and even led to the disappearance of the evidence. The Minister of Health was seen at the hospital verbally assaulting the medical staff and asking "who told you to treat these people?", kicking one wounded victim, closing the pharmacy and confiscating medication from patients leaving the pharmacy.

250. The Commission also noted that the hospital staff was terrified at the thought of giving it any information and that several people said they had been warned not to talk. Some people, although realizing that they were taking a risk, nonetheless agreed to share bits of information discreetly with the Commission.

251. The Minister of Health denied that the military took control of the hospitals, indicating that law enforcement personnel did not arrive until the Wednesday. This statement flatly contradicts much of the information obtained by the Commission and contained in this report. The Minister of Health did nothing to lessen the impact on the patients — or on the bodies that had been brought there — of the military forces' takeover of the hospitals. Moreover, he did not reprimand any of his

subordinates in any way for participating directly in the withholding of medical treatment or for failing to preserve the bodies with a view to their identification.

6. Other responsibilities to be determined

252. In addition to the individuals referred to above, the Commission has reasonable grounds for naming others, whose presumed involvement in the events suggests that they should be the object of a more in-depth investigation. The Commission believes that there is evidence of these persons' involvement at least in the events that took place at the stadium and in the days that followed. The Commission believes, however, that an in-depth investigation will be needed in order to determine the extent of their involvement and to consider the individual responsibility stemming from their actions.

253. Among these individuals are:

- Second Lieutenant Marcel Koivogui, aide-de-camp to Lieutenant Toumba, and Sankara Kaba, the President's chauffeur, particularly regarding their direct involvement in the events where they were personally identified by numerous witnesses;
- The Minister of Public Security, Major-General Mamadouba Toto Camara, and officials of the national police, particularly as regards police involvement in the events;
- Brigadier-General Sékouba Konaté, Minister of Defence, and army officials, including those of the national gendarmerie and those in charge of the military camps, particularly as regards the involvement of the gendarmes in the events and the involvement of the gendarmes and the military in moving the bodies and in the other events that took place in the Samory Touré and Kundara camps;
- Militia officials, particularly as regards their role in the events of 28 September and the days that followed;
- Fodéba Isto Keira, Minister of Youth and Sports and Director of the stadium, particularly as regards the cleanup of the stadium and subsequent destruction of evidence;
- Doctor Fatou Sikhe Camara, Director of Donka Hospital, particularly as regards the military takeover of her hospital and the various measures taken to conceal medical facts;
- Civilian CNDD officials, particularly as regards the concealment of the facts.

V. Conclusions and recommendations

A. Detailed conclusions and recommendations

254. The Commission feels duty bound to make a number of recommendations, particularly since it is required to do so under the terms of its mandate.

255. Despite the country's rich natural and human resources, Guinea's population is in the grip of increasing poverty. Indeed, the entire subregion is wracked by

underdevelopment and persistent political instability. Like other countries of the subregion, Guinea is a participant in the drug trade, which flourishes dangerously in Conakry thanks to the protection provided by highly placed and powerful figures.

256. The recommendations that follow are the logical consequence of assigning the responsibilities identified above.

257. The Commission's first set of recommendations concern the political and military situation that exists in Guinea today and which seems likely to continue well into the future. The most recent bloody events that led to the hospitalization abroad of the leader of the junta provides ample proof of the extent of the rivalries within the military. Moreover, the fact that the civilian political class, which includes many politically experienced and committed figures, succeeded in presenting a united front fails to conceal the extreme fragmentation of factions and parties (90 in total), as well as a legitimate aspiration for power by men and women who are capable of serving their country well. The very marked taste for power that was expressed directly to the Commission by the military, and particularly by its leader, poses the risk of an insoluble conflict with the political parties and thus the threat of civil war with the most tragic consequences, particularly in view of existing tribal divisions which are exploited as a tool in the political debate.

258. The fear is that Guinea will not be spared in the weeks and months ahead from bloody spasms during which the most elementary human rights are likely to be seriously jeopardized. The Commission is therefore of the view that it would highly be desirable for:

(a) The Security Council to remain seized of the situation in Guinea with all the attendant political and legal implications;

(b) The Office of the United Nations High Commissioner for Human Rights to monitor the situation in Guinea, at least in 2010, a period during which the country is likely to remain unstable, by means of a fairly significant presence in both quantitative and qualitative terms to serve as a deterrent to potential violators of international law.

259. The Commission wishes to make a second set of recommendations. The Guinean people have long been subject to coups d'états accompanied by grave and repeated violations of human rights. This situation is made possible by the existence of a very particular kind of army in Guinea and the repeated violations of human rights is a consequence of the impunity that is virtually institutionalized. These two phenomena — an atypical army and institutionalized impunity — are the real and profound weaknesses of the political system in Guinea.

260. The Commission has already described above the profile of the armed forces of Guinea. The true role of the armed forces in the country's political life cannot be appreciated without taking into consideration the fact that the Guinean army is composed today of clans and factions that barely conceal their rivalries. While the Commission's investigation did not focus specifically on the existence in Guinea of South African, Liberian or Sierra Leonean mercenaries or on the creation of an ethnically based militia, it is nevertheless true that the Guinean army inevitably presents the image of a disorganized and utterly ill-disciplined force, often comprised of lawless young men whose handful of officers supposedly in charge of them use their influence and power for ends that often have nothing to do with the

service of the State and aimed in particular at serving their ambition to maintain their hold on the power they have acquired.

261. While it is perfectly clear that the solution (albeit very difficult to achieve) to this serious problem of the military forces is clearly outside the mandate of the Commission, the latter nevertheless has an obligation to urgently request the most competent national and international authorities to consider all appropriate measures (including within the framework of technical cooperation agreements) to comprehensively reform the military system in Guinea by introducing a single command structure, stricter discipline, a system of promotion based on merit and not on ethnic affiliation, a higher sense of duty, and respect for life and for all the obligations of military personnel. While this would require a colossal effort, the Commission is firmly convinced that unless this is done, Guinea would never succeed in overcoming its problems. The problem of the military is simply too critical in this country and transcends all others in a way that is unprecedented.

262. The other side of the coin is impunity, which has been elevated to the level of an institution, especially during the later years of the fading regime of General Lansana Conté. The military personnel of varying ranks who have subjected Guinea to their whims have never been punished. But unbridled corruption and wheeling and dealing have fuelled other crimes, including the violation of human rights with total impunity, that have made Guinea a jungle where military officers are courted, feared and totally exempt from the rule of law.

262 [bis] It is to the eradication of this culture of impunity with its many disastrous consequences for democracy and development that the Commission would like to contribute with the support of all competent authorities. The Commission therefore looks forward to a positive response from the international community so that the crimes committed on 28 September last and in the days following and which have been proven beyond a shadow of doubt can be punished and not simply added to the list of crimes committed in June 2006 and in January and February 2007, which have so far gone unpunished.

263. The Commission would like to make a third set of recommendations that are directly related to this problem of impunity and which concern the following six points:

(a) Information to the families of disappeared persons;

(b) Referral to the International Criminal Court;

(c) State of the legal system in Guinea;

(d) Right to the truth;

(e) Compensation for victims;

(f) Imposition of targeted sanctions by certain international institutions.

The Commission will review below each of these points.

264. In light of the cases of forced disappearance, most of which the Commission was able to document, and in recognition of the suffering of the families who have been unable to say goodbye properly to their loved ones whose bodies have not been found, the Commission recommends that the Government of Guinea should be

called upon to provide the families concerned with all relevant information on the cases of disappeared persons.

265. Accustomed to impunity, the current regime does not appear ready to respect any authority other than its own, including that of the justice system, especially when the courts dare to prescribe penalties against the regime itself. During their visit to Guinea, the members of the Commission were also made aware of the deficiencies of the national justice system. The Commission recalls by way of illustration that the "cases against X ...." brought before the court in Conakry by a political party and by representatives of civil society following the events of 28 September not only were not heard but were not even registered by the prosecutor of the Republic.

266. The Commission is of the view that, given the weaknesses and deficiencies of the judicial system in Guinea in the face of a militarized political regime that has suspended the exercise of the constitutional order, it cannot but recommend that where, in accordance with the conclusions contained in this report, there is a strong presumption that crimes against humanity were committed, the cases against the individuals concerned should be referred to the International Criminal Court.

267. It is clear that any improvement of the judicial system of Guinea is directly linked to the evolution of the political situation in the country. The Commission fervently looks forward to an early return to democracy, stability and development and recommends that the United Nations should call upon the Guinean Government to embark upon a bold reform of its judicial system, respecting the applicable international norms and receiving the resources necessary for its proper functioning.

268. Given the importance of what is at stake, the Commission strongly recommends that the international community should provide support and assistance to Guinea for the reform of its judicial system, including through the implementation of technical cooperation programmes and the allocation of appropriate financial assistance.

269. Moreover, in order to enable the people of Guinea to make a fresh start, it is also necessary to shed light on the painful past that Guinea has experienced since its independence, with a view to promoting national reconciliation. It is in fact impossible to promote reconciliation, with respect for each individual and each sector of society, without making the search for truth a prerequisite for this much-needed exercise. This historical clarification has a number of benefits. In addition to relieving the suffering of victims, it would help lay the foundations for policies and mechanisms aimed at ensuring that the same mistakes are not made again.

270. With regard to the far too many victims of the tragic events of September and October 2009, or their legal claimants, the Commission calls upon the Government of Guinea to ensure that the families of those who lost their lives receive adequate compensation and that the injured receive just reparations for the physical and psychological harm suffered. In the view of the Commission, compensation should necessarily include:

(a) Medical treatment and adequate care, in particular for the victims of sexual violence, who should be given treatment for HIV/AIDS and other sexually transmitted diseases;

(b) Psychological counselling, particularly for victims of gender-based violence, especially rape and sexual violence;

(c) Financial compensation;

(d) Symbolic reparations after consultations with and subject to the agreement of the victims themselves and all of the Guinean political actors concerned; repararations may take the form of official recognition of the scale of the crimes committed on 28 September or the erection of a monument to the memory of the victims, the dead and the disappeared.

271. However, in order to make such reparations a reality and as a prelude to the necessary national reconciliation, the international community, which is perfectly aware of Guinea's parlous financial state, should also offer medical aid and the technical and financial assistance necessary for the reparations to be made.

272. Also needed in the fight against impunity are targeted sanctions by certain international and/or regional institutions. In this regard, the Commission notes with satisfaction the targeted sanctions already imposed by ECOWAS, the African Union, the European Union and the United States of America against the individuals presumed to be directly or indirectly responsible for the events of 28 September.

273. The Commission recommends that the measures should be extended to cover the individuals named in this report, if they are not already subject to sanctions.

274. Lastly, and in conclusion, the Commission wishes to make a final recommendation concerning an important issue, which has already been raised on several occasions and at various levels, namely, the protection of victims, witnesses and their respective families. The Commission believes that the Government of Guinea has a very good opportunity to demonstrate to the international community its desire to break with a recent past that has been ugly and painful for the people of Guinea as a whole, by firmly committing to fulfil its obligations in this area and not to harm in any way whatsoever the victims and witnesses who have cooperated with the Commission.

275. The Commission, whose report is the fruit of an exhaustive search for the truth with the help of these witnesses, recommends that the African Union, ECOWAS, the European Union and all those States that are in a position to do so, take steps to remind the Government of Guinea of its obligations to protect victims and witnesses and to provide refuge in accordance with the provisions of international law governing asylum to all victims or witnesses who may be in danger.

B. Summary of recommendations

276. The Commission recommends:

(a) In order to prevent any worsening of the situation in Guinea:

(i) that the Security Council remain seized of the situation in Guinea, with all the political and legal consequences that this implies,

(ii) that the Office of the United Nations High Commissioner for Human Rights should monitor the situation in Guinea, at least in 2010 during which the country is likely to remain unstable, by an appropriately significant

presence, in both quantitative and qualitative terms, to serve as a deterrent to potential violators of international law;

(b) In order to address internal institutional weaknesses:

(i) that the most competent national and international bodies should consider all necessary measures (including in the area of technical cooperation) to comprehensively streamline the military system in Guinea through the introduction of a unified command structure, stricter discipline, promotion on the basis of merit and not on ethnic affiliation, a higher sense of duty, respect for life and for all the obligations of military personnel;

(ii) that the United Nations system and the international community as a whole should call upon the Government of Guinea to embark on a bold reform of the judicial system with a view to putting an end to impunity. This reform should respect all applicable international norms and be given the resources necessary for its proper implementation;

(iii) that Guinea should undertake to seek the truth so as to shed light on the country's painful past since its accession to independence and thereby contribute to national reconciliation.

277. The Commission also recommends that the Government of Guinea should be firmly enjoined to:

(a) Shed light on the events of 28 September;

(b) Prosecute those responsible and provide compensation to the victims;

(c) Provide the families concerned with all relevant information on the cases of disappeared persons.

278. The Commission also recommends that where, in accordance with the conclusions contained in this report, there is a strong presumption that crimes against humanity were committed, the cases against the individuals concerned should be referred to the International Criminal Court.

279. In order to ensure that compensation is paid to the victims, the Commission calls upon:

(a) The Government of Guinea to ensure that the families of deceased persons receive adequate compensation and that the injured receive just reparations for the physical and psychological harm suffered;

(b) The international community, which is perfectly aware of Guinea's parlous financial state, should also offer medical aid and the technical and financial assistance necessary for the reparations to be made.

280. The Commission notes with satisfaction the targeted sanctions already imposed by ECOWAS, the African Union, the European Union and the United States of America against the individuals presumed to be directly or indirectly responsible for the events of 28 September. The Commission recommends that the measures should be extended to cover the individuals named in this report, if they are not already subject to sanctions.

281. With regard to the protection of victims and witnesses, the Commission recommends that:

(a) The Government should fulfil its obligations in this area and the commitments its has given to victims and witnesses, in particular those who have cooperated with the Commission, taking due account of gender specificities.

(b) The African Union, ECOWAS, the European Union and all those States that are in a position to do so, should take steps to remind the Government of Guinea of its obligations to protect victims and witnesses and to provide refuge in accordance with the provisions of international law governing asylum to all victims or witnesses who may be in danger.

Annex 1

Map of the 28 September stadium